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Legislative Assembly of Ontario

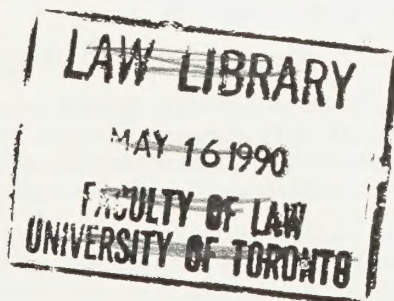
Second Session, 34th Parliament

Official Report of Debates (Hansard)

Tuesday 27 March 1990

Standing Committee on Administration of Justice

Alternative Dispute Resolution



Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le mardi 27 mars 1990

Comité permanent de l'administration de la justice

Autres formes de règlement
de disputes

Président : Robert Chiarelli
Secrétaire : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 27 March 1990

The committee met at 1551 in room 228.

The Chair: I would like to convene this meeting of the standing committee on administration of justice.

DEATH OF DALTON McGUINITY

The Chair: Before we get under way, I do want, out of respect for Dalton McGuinity, one of our learned colleagues and friends who has passed away, to ask committee members if they would stand for a minute's silence, please.

The committee observed one minute's silence.

ALTERNATIVE DISPUTE RESOLUTION (continued)

The Chair: For the record, I want to indicate that both the member for the New Democratic Party and the member for the Tories have indicated that they may or may not be here this afternoon and that we have authority to proceed in their absence.

Again, before we proceed with the Attorney General, there are a couple of matters which have to be tabled. I will ask the research officer, Susan Swift, to please indicate what those are.

Ms Swift: I believe that you have before you a package of responses from the various provincial attorneys general that were given to the committee in response to a request to provide to the committee a statement of their governments' policy regarding alternative dispute resolution. We have received responses now from eight of the 10 provinces and we are waiting just for a response from Quebec and Newfoundland. I think if you read them you will see that it is probably a fair statement to say that most of them advocate alternative dispute resolution but do not have a broad-based framework for alternative dispute resolution.

The Chair: Thank you. We can deal with those matters in our in camera sessions when we deal with the draft report and the report.

MINISTRY OF THE ATTORNEY GENERAL

The Chair: I want to thank the Attorney General for agreeing to come before the committee and speak about this important issue. I believe he will have some opening remarks and then he will be available for some questions and answers.

Hon Mr Scott: I have no formal presentation, but I think it would be useful perhaps to make a few introductory remarks and then to respond to the concerns of the committee, if I can.

Let me begin by saying that I have seen part of your proceedings on television, when I was sick at home for four days, and I have read the rest of it. I want to tell you, for what it is worth, and it is just my view, that I am enormously impressed with the work of the committee and the work of the staff in preparing the witnesses for the committee. I think this is probably a unique experience in Canada and I think it is remarkable the breadth of evidence you have had and the extent

to which real concerns about alternative dispute resolution have been raised in the committee. I really want to congratulate you.

This was the committee's own initiative, to take up this subject. We await your report, of course, with interest, but even at this stage I think it has been a remarkable success in focusing our attention on what is a very important issue. Who am I, after what you have heard and been through, to say anything about alternative dispute resolution? I think the reality is that the members of the committee and the staff now probably know more about it than almost anybody in the country. So really I should be asking you a series of questions, but I know I will have the chance to do that when your report is prepared.

I would just like to make a number of preliminary observations. While there are dissenters in particular subjects, alternative dispute resolution is rather like motherhood: everybody is in favour of it someplace or the other. There is some concrete experience with it in the United States and, as the committee's deliberations have shown, some experience in Canada, but it is not an issue that has been very thoroughly analysed and it is not an area in which there is as much concrete experience as you would have thought likely. I am sure the committee staff, in looking for witnesses to put before you, must have assessed that. Yes, they could find that a native affairs group had experience in mediation, and that was something, but in so far as adjudication is concerned there is probably, outside the labour relations area, the lemon laws in the Ministry of Consumer and Commercial Relations and one or two other areas, not much concrete experience.

I have a couple of personal observations about it. First of all, I think it is an initiative that is clearly worth pursuing as an alternative to existing adjudication or mediation methods and perhaps as a resource where the existing methods, usually the court system, are not effectively utilized. So it is worth pursuing. As a government, I think we have, especially with today's announcement, indicated our commitment to pursue it effectively and aggressively.

I do not rationalize alternative dispute resolution as a solution for the problems of the judicial system. We must have a judicial system, and if the judicial system has problems, it is our obligation to resolve those problems and to make it more effective and to make access to it as effective and as easy and as convenient as we can. We cannot beg off that obligation by saying, "Well, the court system may not serve your needs, so we are setting up something else." Alternative dispute resolution, it seems to me, cannot be rationalized because we have had difficulties in the traditional litigation model. It has to be assessed on its own merits.

I think someone said at our announcement today, Mr Chairman, at which you were present, that alternative dispute resolution may be a better way. That is one way of looking at it. I prefer to say it is another way in which disputes can be adjudicated or mediated and resolved. That is point 1.

The second point is that there is a whole host of subject matter areas which, it is asserted by one individual or one group or another, are suitable for alternative dispute resolution. There are people who will say it is an appropriate response to consumer problems, neighbourhood problems, matrimonial

problems or even criminal or quasi-criminal problems. As one approaches the issue, you have to be very chary and very careful—and this will be a task for the committee—in attempting to develop general principles, general rules or a general framework designed on the basis that you want to fit everything in.

I am not sure, for example, that you could develop an ADR system that was designed to be useful in the resolution of community or neighbourhood problems which would have any utility, for example, in resolving disputes between two small business people or resolving matrimonial disputes. In other words the dynamics of each subject matter are, to a certain extent, going to dictate the shape of an alternative system for that subject matter. That is easy to say, but it will be a challenge for the committee to recognize that fact because naturally one's instinct is to say, "Well, let's establish the principles." I think one of the first principles will be that there is no central principle that must be applied in every alternative dispute response except that it is going to be an alternative.

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The third thing is that because the kind of alternative dispute resolution that you might want to develop is so focused on the subject matter of the dispute you are going to attempt to mediate or resolve, we are dependent on experience as a guide to develop new techniques. The reality is that, apart from labour relations and a couple of other examples, there is almost no organized experience in Canada or Ontario sufficient in quantity to enable you to make judgements.

I think the committee heard from Mr Stockwood, for example, who has established what is called the Private Court. Was he here? That is a very interesting experience. The reality, though, is that in two years of operation the Private Court has had, I believe, two cases. So it is very difficult to generalize from this very narrow, unmonitored experience. That really was the thrust of our announcement today.

I am very sensitive to the criticism the third party makes that we made this announcement while the committee was sitting. I should tell you that the work on the fund for alternative dispute resolution which we announced today commenced well before the committee did. This is not something we just turned to in the last week; we have been working on this for some time. But having listened to your hearings and having read the transcript, I think the fund for ADR which we established today, with in excess of \$1 million, is exactly the ticket in light of the kinds of submissions you have heard because this is a fund that, under an arm's-length directorship and administered by The Network, who are the most experienced ADR people in the country, is going to fund experiments.

I am not saying it will not do some academic work, it may, but what it is going to do is invite people to come to it with something they want to try—it may be in neighbourhood disputes and it may be in quasi-criminal—and they will assess that project and say: "Look, is this something we might want to look at? Is this something we want to support?" If the answer is yes, then the fund will support it and monitor it. That is the key: measure day by day how it works. Is it more convenient? Is it cheaper? Is it producing better decisions? Is there a high level of satisfaction or a low level of satisfaction?

At the end of the three- or four-year experience, we hope we will have, as a result of the fund's activity, a series of concrete experiments on the ground in real-life communities which will be measured and assessed so that policymakers can then say: "Yes, this works. No, that doesn't seem to work. Yes, this

works all right, but we could probably make it better if we did this or that," or "Yes, all the judges think that works beautifully, but the clients think it is terrible." So we will get some sense of what really meets needs. That is the purpose of the fund.

When I watched you all on television and read the transcript, I was really struck by the fact that notwithstanding everybody's best effort, sitting in my place as your witnesses, many of them were saying, "Well, that's what we think will happen," or "That's what we are afraid of," or "That's what we are worried about," or "That's what we hoped for." Nobody really had a very concrete experience from which he could judge. We want to allow that concrete experience to develop in a completely voluntary environment. We are not talking about guinea pigs; we are talking about people who will agree to participate.

I think that is very important because, as the committee knows better than I, having heard the evidence, there are some areas that are very contentious. Matrimonial law is an area where there are very great concerns about power imbalances, particularly, though not exclusively, in situations of either actual or threatened domestic violence. You heard the debate. Some women thought that the majority of the Report of the Attorney General's Advisory Committee on Mediation in Family Law could be implemented without risking a power imbalance. The Ontario women's directorate and some of the witnesses before you were much more concerned and thought that that was a real risk. These contentious issues exist, and what we need on a voluntary basis is to get some experience to assess them. That is really what we are trying to do.

The last observation I would make, and I think this reflects a concern that some of your submitters made, is to emphasize that I have made the point that ADR should not be rationalized as a solution for the problems of the courts. I make the other point, that no ADR system can be established, I believe, at this stage which precludes access to the courts, except in very careful circumstances. The judicial system, though it may have flaws, may have inadequacies and is very stressed in terms of the obligations it has to perform, is an important bastion of liberty in the community. We must not at any stage, without very great care, hive people off from it if it is their desire to utilize it. It has got to be preserved, in that sense, as a resource. In that sense, I look at alternative dispute resolution as a better way, we hope, but not necessarily the only way, and not a way designed to exclude the courts.

I really have nothing further to say, but I would be glad to respond to any questions.

Mr Polsinelli: We heard that in California, in dealing with family law matters—and the committee is familiar with the report, which you are in possession of, dealing with family law mediation—prior to adjudicating on division of assets, spouses must go before a mediator to attempt to resolve the custody and access question. They cannot petition the courts for a resolution of assets until custody and access is resolved either, and they must try before a mediator prior to going to the courts for a custody and access order. It seems to me that is one way of removing some of the acrimony associated with matrimonial disputes where custody and access are used as leverage in terms of getting a better bargain in the division of assets. What would you think of the applicability of something like that?

Hon Mr Scott: I think you have to look at it very carefully. As soon you say in a matrimonial dispute that you cannot apply for this relief until you have made this adjustment, to a certain extent you are altering the freedom of the parties to address

issues in the way they want and to a certain extent altering power balances. For example, the old family law in Ontario—

Mr Polsinelli: We have some precedents on family law dealing with precisely that point.

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Hon Mr Scott: I am just saying you want to address it very carefully. Under the old law, now extinct, and I am not sure it was ever the law, where there was perceived to be a connection between custody and access on the one hand and support on the other, we came to know graphically that women, and no doubt sometimes men, in order to get a custody or access remedy, might use or abuse support requirements or abandon rights or modify demands. I think you have to be very careful, particularly in family law, to ensure that that does not happen. I would want to look very carefully at that regime before we did that. I just have to talk to my pros here to make sure that I have not stepped out of line.

Mr D. W. Smith: Since we have got the attention, shall I say, of some of the lawyers in the last few months—

Hon Mr Scott: The quite keen attention.

Mr D. W. Smith:—how much more attention will we create by your announcement today or by carrying forward on this report? What do you sense might be the percentages that may appreciate this or that may not appreciate this?

Hon Mr Scott: I think the organized bar and the practising lawyers in Ontario will regard what we announce today and will regard your work—and I presume your report, knowing you all, will be excellent—as a positive thing. The bar is not, as far as I am aware, negative about alternative dispute resolution. The bar is, I think, generally speaking, supportive of it as an alternative. You heard Ms Curtis, for example, who gave evidence here. She is supportive of it, but she is very cautious and says, “Now in family law matters it has to be done with great care and the existing court regime has to remain available to people” and so on. But I think what you will find is that, by and large, the bar in Ontario and the judges will regard this initiative as entirely positive and will be anxious to co-operate with the fund in developing projects.

Mr D. W. Smith: I cannot remember the names of the people who made presentations, but I sensed from the women lawyers—I think there were two from Toronto who made presentations; as I say, I cannot remember their names—that the women were not as much in favour of ADR as maybe some of the men, although the women from the United States or British Columbia seemed to be in favour.

Hon Mr Scott: I would put it this way: There are many women who are very cautious and very concerned about mediation or alternative dispute resolution in matrimonial disputes. There is no question about that. There are many women who are supportive of it. There are many women who are very nervous and concerned about it, particularly in cases where there is domestic assault or sexual assault. I think their concern is a legitimate one.

When I established the committee to make recommendations to me on mediation I was not unaware of that, and that was precisely why I asked a number of women to sit on the committee and why I asked the women's directorate to nominate a member of it, precisely because I was aware of this. As you can see, while all members of the committee accepted most of the recommendations, when it came to the question of

power balances, in light of threatened or potential domestic assault there was a division in the committee's recommendation.

The majority of the committee, as you will recall, opted for a system in which every woman must have a lawyer before there can be any mediation, in which mediation would be entirely voluntary and in which mediation would not be permitted where there was any suggestion of domestic or sexual assault. The minority members thought that did not go far enough to preserve the power balances. That is a very difficult issue which we are going to have to grapple with. I do not know the answer to it yet. We are still reflecting on it and we will be very grateful for your views.

I think one of the points Ms Curtis made—she did not make it in this context, but I think it is useful in this context—was that something in excess of 90 per cent of matrimonial disputes are now settled without going to court. What that means is that they are mediated in the sense that the two lawyers, one acting for one side and one acting for the other, mediate and achieve a settlement, make offers one to the other and make an adjustment. So in 90 per cent of the cases, whatever the power balances in the domestic life may be, the cases are getting settled by lawyers right now. In those cases, I did not assess that there was very major concern about power imbalances. The concern about power imbalances only seemed to come into play when a formal mediation regime was proposed.

I do not think you can discount the concerns. We are going to have to figure out some way to find out what actually happens in those cases, to find out a way to assess what is really going on. It is another example. We do not know exactly what is going on and we have to find that out. But I think it would be wrong to discount the view of either side at this stage. It is something that has to be very carefully considered because we do not want to do damage. The point of this exercise is to do something better and more effectively, not worse.

Mr McClelland: I just want to touch base on one aspect of both the announcement today and the issue of alternative dispute mechanisms in general. A significant part of the project provides for the component of research and trying to provide some empirical data. In terms of the liaison with your ministry, the ongoing work that you envisage will be taking place over the four-year period within the context of your ministry, and looking at the research that emanates from the project on an interim and ongoing basis, I just wonder if you could comment on that briefly.

Hon Mr Scott: The project and the fund derive from our concern to get some experiments going so we can find out how these things really work and what is good and what is workable and what is not. The important feature of the fund is that it is a co-operative exercise; \$500,000 comes from the government of Ontario, some \$300,000 comes from the Donner Canadian Foundation, which is very interested in justice matters traditionally, and \$300,000-odd comes from the Law Foundation of Ontario which, just so you will know, is the interest on lawyers' trust accounts that is assigned to this foundation which already supports legal aid and some other very imaginative research projects.

It is a co-operative exercise. And because government money and non-government money is in it, we cannot run it. It is a co-operative exercise and the idea was to say, “Look, why don't we establish, in effect, a nonprofit corporation with a board of directors and an administrator that will administer the

fund, decide who gets the grants and decide how the experiments are going to be monitored?"

In that way, hopefully at the end of the day we will have a fairly independent assessment about what works. It will not be the government saying, "We tried this and it works." It will be pretty sophisticated, a pretty experienced group of people assisting and making the assessment. Then, of course, we in government will look at it and say, "Yes, we think that's a good idea," or "We do not agree that this is the way to do it." Then we will develop policy responses to it.

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I think it is very important to have that kind of independent role. We also hope that by establishing an independent fund we will get some more money. I have not exhausted my begging yet, and I intend to go to a couple of other sources who were not able to be with us at the announcement today and ask them to produce some more money, because the more money we can get, the more experience we can get, the more experiments we can try. That is how I see it operating. Did I cover everything?

Mr Imai: Yes, I would just like to add one point.

Hon Mr Scott: This is Shin Imai, who was your first and most loquacious witness.

Mr Imai: One other thing about the reports: The intention is for the fund to require that, when appropriate, the projects that are funded do evaluations that will give us the information, and that this will be published or disseminated or available. So throughout this period there will be information from specific projects that will be made available.

The other feature we considered very important was that at the end there be a wrapup so that the operation of the fund itself will be evaluated but the information gathered over the period would be analysed and presented in a coherent way to provide the information not only to the government but to people who are using the system and people interested in the policy in general. Hopefully throughout this period we will be getting the feedback that you are talking about, and at the end a wrapup picture of the situation.

Mr D. R. Cooke: That answer might help Mr Smith a little bit in that the Law Foundation of Ontario is—is it not, Attorney General?—administered by the Law Society of Upper Canada.

Hon Mr Scott: The law foundation is, I think, a statutory corporation, and it has a board of trustees. Some of them are appointed by the law society; some of them are appointed by the Attorney General.

Mr D. R. Cooke: So it would certainly indicate a fair amount of acquiescence, if not enthusiasm, from the profession.

Hon Mr Scott: Exactly. Indeed today, as your Chairman will tell you, the chairman of the law foundation was present and was quite enthusiastic about the project.

The Chair: I might also add that a large number of our very experienced witnesses were members of the legal profession, and they were very strong advocates of the whole concept of ADR.

I have a couple of questions. I am wondering if there is a distinction to be made between ADR in government, in terms of describing models and experiences, and ADR outside of government. In government now we have a lot of ADR. We have new ADR coming on stream all the time. In Bill 68 we are having reference to both mediation and arbitration. In the infor-

mation and privacy legislation we have mediation provisions that have been legislated and implemented. We have the Macaulay report, which has done a very thorough analysis of administrative tribunals and relates that to ADR. We have the committee that looked into mediation in family law. We have the labour law experience, that type of thing in government.

On the other hand, we have things that are happening outside of government, such as the community-based private judging or private courts as they are called. Do you think that there is enough experience in government that it is worth monitoring and assessing in the foreseeable future, as opposed to perhaps waiting three or four or five years to monitor what seems to be trickling up from the community in terms of community-based private judging?

Hon Mr Scott: First of all, what are we talking about? Are we talking about mediation or are we talking about adjudication? They are, as you know, entirely different. I am not aware—and your research staff will know better than I—that there is all that much alternative adjudication experience in government. It is true that Bill 68 proposes an alternative adjudication system with respect to disputes under the schedule for insurance, but that has not begun yet so we have no experience with that. In any event, that is not with government; that is an adjudication method that is going to exist between an insurance company and an accident victim.

I am unaware of any adjudication experience in government. Mark Krasnick was here from the Ontario native affairs directorate and he told you about efforts to negotiate mediation solutions to problems. The Information and Privacy Commissioner sent a representative who told you about their process where, before you got to adjudication, you had a mediation exercise. But I really do not think we have enough experience to draw broad general conclusions.

In terms of government getting into this whole exercise, I think we have to be very careful to remember that this, at least in the startup stages, should be an alternative. Labour arbitration is, of course, not an alternative. It is the only remedy you have under a collective agreement and we have excluded—we never do it totally effectively—labour arbitration issues from the normal adjudication in the court system.

I think we have to be very careful before we do that in many other areas to be sure that we are not making an unwise decision. You will note in Bill 68, for example, that the alternative dispute resolution technique under that statute is voluntary. It is compulsory for the insurers but it is voluntary for the accident victim. The accident victim still has his right to go to court if he wants to do so.

I think one would have to look very at it carefully. For example, if the government decided that in all contracts it negotiates for the purchase of various articles it was going to put in an alternative dispute mechanism in an effort to exclude that seller from having recourse to the courts, I think you would have to be very careful to be sure it was done without any injustice to a person who might feel at the end of the day that only the courts could resolve his or her problem.

It is a long answer, but (a) I am not sure that there is that much useful experience when all is said and done, and (b) I would be very hesitant about generalizing too far from the experience we have except to say that it is a phenomenon that appears to attract some receptivity in a wide variety of areas and we are beginning to learn something about how it can be made to work usefully.

The Chair: Paul Emond from Osgoode Hall law school, and I think also Bonita Thompson, who is the chair of the Canadian Bar Association ADR committee, both suggested that perhaps governments, not necessarily only the government of Ontario but governments, should take some initiative in major native land claim or environmental types of cases to really try to use some ADR techniques in circumstances which are now litigated more often than not.

Hon Mr Scott: Again, as I read what Mr Emond said, he was making a proposal not about mediation—if he restricted it to mediation I would have no difficulty. Indeed, the staff of the native affairs directorate are getting trained by the Harvard people who talk about “getting to yes” and all that sort of stuff in order to be useful negotiators in the land claim and self-government process, but if you are talking about creating a mechanism that excludes the courts, I think you have to be very careful.

For example, if you establish by statute an independent alternative adjudication method for a native community that wanted to adjust or settle its land claim, it seems to me that at first it would have to be voluntary. You surely could not say to the Temagami people, “You cannot go to court.” You could present an alternative for them as an option.

1630

The Chair: I do not think Professor Emond was clear on that particular point. From your experience, has there been any or much mediation, voluntary activity, in ADR in major native land claims or environmental issues?

Hon Mr Scott: Sure, there has been lots of mediation. What I take mediation to mean in this sense is negotiation or bargaining in the first place. That is what lawyers do when they try to settle cases. Now, I take it there is a further refinement in mediation in the sense that a third person is interposed between either the lawyers or the parties to try to assist them to make an agreement. As you know, most cases are settled by the mediation process, but without a mediator.

In native affairs, for example, my other ministry, when we get into a big negotiation now we routinely have a mediator appointed, usually someone from outside the public service who is to meet with the government lawyers and the lawyers for the band or native community to attempt to bring them to an agreement. So we have some experience there and that is useful. But I think, until we have a lot more experience, you would be reluctant to make it a compulsory process and you would be very reluctant to say, “That is what you are getting and you cannot go to court.”

Mr D. R. Cooke: I guess I just wanted to reiterate what the Attorney General is saying with regard to the voluntariness of it, especially where it is appropriate to the criminal system. I am not sure what evidence the committee heard, because I have not yet had a chance, just coming on the committee, to review all the evidence, but the conflict and peace studies department at Conrad Grebel College, that did a lot of pioneer work in this a while back, I think likely came to the conclusion too that in that area as well it has to be a voluntary matter, especially in so far as the victim is concerned, who obviously has a bit of a leg up at the point of an offence having been committed. The value occurs only if there is a desire to reconcile something, and often that desire is not there. So there is limited value there, but where the value is there, it can be very, very fruitful.

The Chair: Just to comment on it, the overwhelming weight of the testimony that came in is that ADR can function only when the parties want to make it work, and that the mandatory ADR is not advisable. That seems to have come through quite strongly.

Hon Mr Scott: Mr Imai has pointed out to me a point I might have made in discussing our own experiences of government. When we came to office, we found that there were a number of native communities which were confronting major projects, perhaps the development of a mine or a hydro project, not on their reserves but in the general neighbourhood of their reserves. Up north “general neighbourhood” may mean 25 miles away. The native community would be concerned about environmental issues, about employment issues, about whether the working people who are working in the mine would be allowed to go into the native communities and a whole array of social, economic and environmental concerns.

There were limited remedies for them, and what they would traditionally do under the old government was file an application for an environmental assessment of the project. Under the old system, under the previous government, what that meant was that they filed an application for an environmental assessment and they did not usually get one. It was usually rejected and they simply went away without the concerns addressed. What we did, and I think Dona Lake was the first example of two or three, maybe four, when they filed the environmental assessment we went to the native community, into the mine—was that a mine or a hydro? I have forgotten.

Mr Imai: I think it was a mine.

Hon Mr Scott: And we said: “Look, they have filed an environmental assessment application. We do not know whether the ministry is going to grant an environmental assessment, but even if the minister did, the concerns of this native community are not only environmental. They are concerned about employment and they are concerned about social impacts as well as flora and fauna, so even if they got an environmental assessment it is really not going to address all their concerns. Why do we not establish a new process in which a mediator will sit down with the mining company and the native band and see whether they can work out something so the mining company is happy and the band is happy?”

In the first such process I think the governments participated, but there have been one or two where it has occurred without the governments. In the Dona Lake case, Professor Grant of Osgoode Hall was the facilitator or mediator. He was not there to force anything or adjudicate anything; he was there to bring the parties together and to see whether their concerns could be mediated. That was an interesting example because it was voluntary, but it was really the creation of a process that was not an alternative to anything else because there was not anything else that really they could have done. The environmental assessment was not an adequate response.

Mr D. R. Cooke: It is much more straightforward to them than is the white man’s court system, is it not? Do you get that feeling?

Hon Mr Scott: Well, let me tell you, it is much more straightforward for the mining company too. In this process—and I think in each of those cases we have produced some result; they are not all completed yet—a mining company faces the reality that it is dealing with a mining project which it has to get off the ground in a reasonable period of time. The share issuance or the debenture issuance that is going to fund the

construction of the mine has been done and the mining company has got to get started or next year it is going to cost more money. So they are interested in developing a speedy process and the native community, of course, has the same interest.

So there is no limit to one's ability to develop these new responses. That is an example. In the three or four examples that I could cull from my own experience as minister, even there we have not really done—and it is now too late to do—an effective evaluation of it. An evaluation involves not looking at it from the end. An evaluation involves looking at it as it happens, interviewing all the participants, getting a sense of why this alternative is perceived by them as better or worse than the other alternatives. That, of course, is really the justification for the fund, that we will evaluate what is happening concretely, or they will, and report on it.

The private court is there, and whether it has heard two cases or five, that is great, but before you said the private court is a success you would not be interested simply in the number of cases it heard. You would want to know, was it cheaper? Was it faster? Was it fairer? Was it more informal? Was it more convenient? Was easy recourse to it obtained? If you found it was not any of those things—I am sure it is—you would say, "Well, it does not work."

Mr D. R. Cooke: Just think politically for a minute of even the Bear Island case. No matter how well the government does, there is always the feeling you can say, "Well, we went to court and we had the court adjudicate on all of the claims." But there is still a feeling of, "Yes, but that was our court, our system, the way we set it up."

Hon Mr Scott: Yes, but whether you are talking about an Indian land claim or a contract for the sale of pencils to the government, you are talking about somebody's rights. There are many ways to mediate one's rights, and all we have to be careful of is that we do it without altering power balances unfairly. There are many ways to adjudicate. Flipping a coin, to a certain extent, is adjudication. It is not rational, but it is adjudication; it solves disputes. You often find business people say: "Look, in this particular dispute I don't care who wins. I just want it over right now. The stress of going through it is more than I want to bear."

Bearing in mind that you are dealing with people's rights, I think you have to be very hesitant to create a regime which precludes access to the courts. We have done that in labour relations. Really, I guess we did it in labour relations because before we created arbitration for labour relations there was no recourse to the courts for employee grievances advanced by a trade union. So when we created arbitration as the exclusive remedy for employee or trade union grievances we were not really taking away a court right, because in most of those cases there would not have been a right to sue. We were creating an additional right, and to that extent it was more palatable to say, "Here is an additional right, but here is the way you will enforce it." I am sure most Indian organizations would be very concerned to hear that anybody was contemplating a scheme that would reduce their access to the court system.

The Chair: Are there any more questions? If not, on behalf of the committee members I want to thank the Attorney General for sharing his thoughts with us here today. I am sure that we will have our work cut out for us over the next several weeks to try to formulate a draft report. Mr Cooke, do you have one additional comment?

Mr D. R. Cooke: I just want to move that the committee unanimously endorse everything the Attorney General had to say today.

Hon Mr Scott: My parliamentary assistant is supposed to make that resolution.

Mr Polsinelli: I will support the motion.

The Chair: For members of the committee, I will indicate that we do have scheduled for five o'clock today two representatives from the Ontario Native Council on Justice who are quite interested in talking to us about ADR. That is the focus of some of their activities.

Hon Mr Scott: Since the opposition members are not here today, would you like to do my estimates in the meantime?

Mr Polsinelli: Are the minister's estimates before us?

The Chair: No, they are not.

Mr Polsinelli: It is unfortunate.

The Chair: I would suggest that we recess for 15 minutes and reconvene at five o'clock, when the members of the native council should be in attendance.

The committee recessed at 1644.

1700

ONTARIO NATIVE COUNCIL ON JUSTICE

The Chair: At this time I will reconvene this session of the standing committee on administration of justice and welcome our presenters from the Ontario Native Council on Justice, Carol Montagnes and Dan Russell. The process that we go through is basically, as you are probably aware, for you to make a presentation and make whatever comments that you wish. Then hopefully we will have some time for some questions and answers afterwards. Please proceed.

Ms Montagnes: We would like to begin by thanking the committee for allowing the Ontario Native Council on Justice this opportunity to address you. We are not unmindful of the recentness of our request to meet with you and we thank you for this consideration.

We have distributed to the committee a fact sheet which outlines the history of the Ontario Native Council on Justice, our membership, our mission statement and the objectives of the council. These objectives illustrate a two-part set of goals. First, we are dedicated to developing alternatives to the present system of justice in Ontario. Second, we are committed to working within the current justice system to mitigate the negative implications of this system upon native people. Today we wish to address the issue of an alternative to the present justice system for native people.

Alternative dispute resolution mechanisms are the major research focus of the Ontario Native Council on Justice in the current fiscal year. It will continue to be the major research focus in the next fiscal year. A series of reports are being produced in this subject area. Some of the initial work informs our presentation to the committee today.

At this point, I will ask my colleague Dan Russell, the council's director of policy and program development, to continue.

Mr Russell: A paper entitled Alternative Justice Arrangements for Aboriginal People, already provided to this committee from the native affairs directorate, outlines something of the

topography of the Indian tribal court system in the United States. We would like to expand upon some of the comments made in this paper. We hope to give this committee a more vivid picture of the substance and the processes of these courts.

As the paper stated, the early Cherokee nation cases clarified a number of important issues. These cases declared that the Indian tribes exerted almost unlimited sovereignty over their peoples, their lands and all actions occurring in "Indian country." The Supreme Court clarified that only the federal government could limit any of the authority of the tribe and that the state governments had no jurisdiction over either peoples or events which transpired on Indian reservations.

However, since these early 1830 cases, federal legislation, in the form of the Major Crimes Act, Public Law 280 and the Indian Civil Rights Act, together with the evolution of judicial reasoning, has significantly reduced the jurisdiction of the tribal courts. However, it would be erroneous to believe that these courts are limited to just adjudicating traffic offences. It would be equally unwise to ignore the fact that these courts provide a very significant function in the health and development of the fabric of Indian communities.

The Major Crimes Act has indeed proscribed the tribal courts from trying criminal cases such as murder, kidnapping and rape. However, tribal courts have nevertheless retained the jurisdiction over offences such as sexual assault, criminal negligence, recklessness, drug trafficking and possession, extortion, intimidation, unlawful possession or use of explosives and a myriad of other offences.

In the areas of civil law, tribal courts have a general jurisdiction which is almost limitless. These courts hear actions daily relating to probate; child custody and support; family law matters relating to divorce, separation and property division; negligence actions resulting in injury to property or the person; intentional tort matters; contract disputes; licensing and regulating of business enterprises; natural resources development, landlord and tenant disputes; matters akin to municipal planning, and a multitude of other matters which require an adjudication of some issue. Today the jurisdiction of Indian tribal courts is varied and extensive.

There are three different kinds of Indian courts. Although it is true that the old Bureau of Indian Affairs courts were the first judicially recognized Indian courts, today there number only 17 of these courts among the 260 tribes. These courts are quickly becoming extinct. Similarly, there are no exclusively traditional courts remaining in operation in Indian country. Instead, the tribes have created courts which very much resemble the Anglo-European model. However, the tribes have infused within these western-looking courts elements of custom and traditions as are appropriate for them.

As you have already heard in Mr Stevenson's paper, the Navajo nation has an extensively developed court structure. They have district courts which hear both criminal and civil law matters. They also have an integrated family court system. An appeal from either of these courts is to the Navajo Supreme Court, where the case will be heard by two associate judges and the Chief Justice of these courts. The case is not a rehearing, but rather an appeal on an error in law based upon the record.

The Navajo have also reinstituted a traditional alternative to these courts called the peacemaker court. In those instances where a tribal member has a complaint about another Navajo, he may institute an action in this court. Similarly, where a district court judge believes that the case before her would be better served before a peacemaker, the case can be transferred to this court. A peacemaker is a person, often an elder or com-

munity leader, chosen to hear the claims of the disputants and then find a way to resolve them. This process usually resembles mediation, but often a peacemaker will be asked to arbitrate a resolution of the dispute. However, if the parties cannot mutually agree to a decision, or if a party objects to the peacemaker's decision, the ultimate decision may have to be found in a district court.

Curiously, the Navajo have developed a very specific and involved set of rules to govern the peacemaking process. These rules dictate how an action may be brought, by whom, who may sit as a peacemaker, how they are appointed and procedures for the peacemaker's removal, standards of judicial conduct for the peacemaker, subpoena powers which may be exercised, duties of the court clerk, together with an assortment of forms for the court's use. Indeed, these processes and procedures would suggest a somewhat less than traditional approach to a tribal justice process. However, this particular blend of the new with the old has produced a meaningful, and therefore effective, dispute resolution process for the Navajo people.

The Hopi tribe also possesses both a tribal court and a traditional way of resolving internal disputes. The Hopi have a written constitution which authorizes the creation of a tribal court. The tribal council has passed legislation establishing both trial- and appellate-level courts. Similarly, council resolutions outline the rules for the appointment and removal of judges to these courts. The Hopi courts are governed by forms and procedures not unlike those rules of practice used by the courts in Ontario. These courts, like those of the Navajo, exercise a jurisdiction over both criminal and civil law matters of a broad scope. However, quite uniquely, it has been estimated that approximately 90 per cent of the disputes which might find their way into these courts are resolved elsewhere.

In the Hopi culture the uncle plays a prominent role in the resolution of a dispute. Where a disagreement is between family members, an uncle will be asked to resolve the difference. Where the issue is between non-related tribal members, uncles of the respective parties, perhaps together with an elder, will attempt to resolve the disagreement. When disputes cannot be successfully resolved in this manner, the case will ultimately find its way into the tribal court. But as already mentioned, there is usually little need for this recourse.

Tribal courts in the United States have successfully integrated customary practices and traditional beliefs into a largely Anglo-European framework. Elders have been relied upon by a judge to assist her in her decision-making. Often the language of the court is the tribal language and, just as important, so is the language in the various tribal codes.

The courts in criminal law matters levy fines, assess jail terms and order a variety of diversion programs. In addition, the courts can censure an individual, thereby preventing his participation in community activities, even to the point of banishment from the reservation. This is a significant deterrent for many tribes. Rules governing probate will vary with the customs of the tribe. Adoptions and child protection orders of many tribal courts are also premised upon specific traditions.

However, should one fear that this broad latitude in the decision-making process might give way to arbitrariness and thereby compromise the rights of the individual, be at ease. Both the rules of due process and the rights enshrined within the United States Constitution are substantially guaranteed for all tribal members under the Indian Civil Rights Act. Federal courts will provide an avenue of redress of any tribal court decision which infringes upon these rights of the tribal member.

The history of the relationship between tribal court decisions and the local state courts is an uneven one. Depending upon the relationship between the tribal council and the state government, the tribal court decisions were sometimes respected or sometimes ignored by the state courts. Some states gave little effect to a tribal court judgement off the reservation, while other states gave full faith and credit to the tribal court decision. In recent years many tribes and state governments have co-operated in the administration of justice concerning their respective jurisdictions. Today the state courts commonly enforce the decisions of a tribal court. Similarly, the orders by the state courts find mutual comity in the tribal courts.

1710

What we have hoped to accomplish here today is to share with you a perspective on the tribal court experience in the United States. Of course, this presentation does not review either the great strengths or problems associated with these courts. But what we hope we have achieved is to provide you with the assurance that a native-run judicial process need be neither rudimentary nor naïve. The Indian tribal courts of the United States attempt as much as your courts to ensure fairness and protect individual liberties. We, as much as you, cherish these ideals.

We hope that our presentation will cause this committee to consider recommending that a comprehensive review be undertaken into the feasibility of a separate justice system for native people in this province.

Thank you for your time. We would be pleased to answer any questions.

Mr D. R. Cooke: This is very interesting. I do not know whether either of you was listening to my questioning of the Attorney General a little earlier, but the concept that I was toying with—and I may be on the wrong track—had to do with our system and the extent to which you trust it. We are engaged now in some situations where our government is going to court to fight battles over land claims and things of that nature. Would you care to comment on the system of courts that we have built up and the extent to which native people feel comfortable? I am not thinking so much of criminal courts but other courts, and you can talk about criminal courts as well, if you wish.

Ms Montagnes: If I may make one comment, I think a lack of trust, and certainly a lack of mutual trust, characterizes the relations between government and Indian people. That is clear.

Mr D. R. Cooke: That is a starting basis. That being the case, are courts a good place to resolve these matters, or do you look on courts perhaps as being on the side of the government, on the side of the white man or whatever?

Mr Russell: Perhaps I could ask that you may refer to the one-page.

Mr D. R. Cooke: I read that, yes.

Mr Russell: I think that addresses the issue to some extent. There is not a great deal of respect, I think, in this country generally among native people for the current judicial system, or in any province, and certainly some provinces are worse than others. I am not sure Ontario is worse than many others. There is a feeling that you could find perhaps a greater sense of mistrust of the judicial system in the Prairies, and certainly

Nova Scotia is not a happy place to be right now. That is one answer.

Let me also just recount to you a brief comment about an inquest. An Indian fellow went into a jail in Kenora last year or so. He was very depressed; they put him in solitary; he hung himself. There was an inquest into the death because it is required by law when people are in custody and they die. There was no representation by anyone from the native community, in any sense. There was no one from the family, no native organizations, no one making comments at all. The only recommendation that came out of that inquest—there were no criticisms whatsoever—was to commend the staff of the Kenora Jail on the fine work they do but are not given respect for. That recommendation was sought by someone from the provincial ministry.

Mr D. R. Cooke: They had a lawyer there, of course, from the Ministry of Correctional Services.

Mr Russell: That is right. If you were sitting either in the community when we eventually saw the decision or if you were sitting in the court, you had to shake your head, saying: "We're dying in there. We're not saying you're wrong, but why do you come out and pat people on the back where really there's no need for it?" Whether there is a problem or some criticism should be levelled against them is arguable, but you do not come out with a comment commending the people in an institution where a relative, a friend, an associate died. That just does not make any sense. We see too much of that. There is no one to blame in that. I have made representations at inquests, and the system might need some management, but that is the general tone of the way we see ourselves being treated.

But you have asked a much broader question, a much more involved question. Is there a better way of doing it? Does it meet the needs of the community, or desires? The tribal courts in the United States are different because they have had a history of being able to choose what they want to be. There has been a lot of pushing and pulling at them. But a large measure of what they tried to do is accommodate the community. So they are problem-solving rather than adjudicating forums, if I could put it that way.

What you will find in a tribal court in some tribes is, before the individual is there on a criminal law matter, the judge will take the individual, the people who were perhaps the victims, anyone else who necessarily should be involved, perhaps some elders and so forth, and go back into the judge's chambers. They do not let any lawyers in there. The judge will say: "Everything's off the record. What happened? What are you prepared to do?" They work out a deal perhaps, so there may be some time spent or there may be a diversion program, whatever, and so forth. It is attempting to deal with the problem within the context of the community and what is best for the community. That also deals with child custody issues and so forth.

As a lawyer, you look at it and you say: "What happens to due process? What happens to some rights guaranteed in our Charter of Rights or their Constitution?" They are guaranteed because what happens in that instance is, if nothing can be resolved, if no one is happy about it, they go back out there and it is a brand-new ball game. Rules of evidence and so forth and the constitutional guarantees, due process, all that comes into play. But what they first try to do is find a system so that this can work for the people involved in the community because they have to live together. There are traditions and customs. Harmony can be developed.

I guess I should answer. This system does not do for us what we would like it to do, no.

Mr D. R. Cooke: There are a lot of people in our society who would say similar things. I can think of inquests in which there was little or no representation of who becomes the accused, I suppose, the person who may have been in custody. That view is not uncommon in our society too, that you cannot fight city hall, or if you do not know the right people, you cannot accomplish anything in our court system. Is there any compromise? Is there any way that we can improve it? If that inquest had had native people on the jury, would that have helped?

Mr Russell: Had I been in the room, I would have suggested that it was simply an inappropriate recommendation. I would not be there to criticize. I would be there perhaps to try to find out what happened. In this instance, I am not levelling any criticism in particular against that process. I think what you found was an insensitive lawyer for one of the ministries, Correctional Services. The jury, hearing nothing from the judge, said, "Fine, it makes sense to us," and that is what it came back with. I am not criticizing the process.

Mr D. R. Cooke: Likely an insensitive crown attorney too.

Mr Russell: He might have done something. But I am simply saying, when we look at the process, we are not blaming anyone, but we say: "This is craziness. One of us died and all they do is pat themselves on the back? Tell us how he died and say no one is to blame, fine, but don't—"

That was highly insensitive. We are not criticizing that process per se, but there is a general tone of that in treatment of people.

Mr D. R. Cooke: I am just saying it is not just the native community, though, that feels that way. That is a common feeling in a lot of circumstances among a lot of people who brush up against the law a great deal. I do not know what we can do about it. The system comes to us with a great deal of tradition and a great deal of care placed on balancing various concerns. But you are basically saying to us, and I think you have a right to say it: "So what? It is not something we have had enough input into to feel any moral weight from," as the quotation indicates, so you are asking for parallel systems.

1720

Mr Russell: Essentially, I would think. What we are asking for today is consideration of looking at something like that. What they do have in the United States is, I think, accurately described as a parallel system.

I think what we did not do today was, we did not want to come in here and try to argue the rightness or the moral integrity of our right to have a system of that nature. I think this is for the native organizations. The chief of the Indian organization that represents all the Indians in Ontario did speak to you, Mr Peters, and I think it is incumbent upon people such as he and Joe Miskokomon and other Indian political leaders, and indeed they do this, to speak to the issue of why we should have this sort of system.

What we are here to do today is to try to suggest to you that, should a decision be made that it is feasible to look at it or that it be entertained, we should move in this direction. We are here to try to suggest to you there are ways to do it. It is not brand-new. There are examples and models we can look to and there are good and bad things about them.

Let me give you an example of how something could be dealt with in a tribal court had it been our system to deal with that cannot be done in Ontario. When someone walks into a courtroom, old city hall, and is charged with, let's say, an offence of assault, the judge there has his hands tied as to what he can do with that. There are very limited things. Indeed, we saw an article in the paper last Friday reporting that with regard to young offenders, the judge is saying: "Lawyers don't come in here and give us alternatives. I either have to let him go or lock him up. I want something better than that." This was on the front page of the Toronto Star Friday afternoon.

What we could do, though, is that if it came in as a criminal matter, we could say: "Just a second. Let's treat this as a civil matter." We are not then sort of forced into whether or not it is put him in jail or suspend his sentence, probation, this sort of thing. We can become involved in diversionary programs, but we also are not so much encumbered by some of the concerns that are built into the criminal justice system, such as concern about representation by a lawyer. We can go into the back room. We can strike a deal with the people who are involved, maybe the person who had his nose bopped, and it offers us latitude because it is our system. In this criminal law system you cannot work like that.

Mr D. R. Cooke: Provided the victim is in your system. What if the victim is someone who is not prepared to morally accept that? That is something that we are dealing with in our system too; you have to have co-operation. What would you say then?

Mr Russell: My experience in the United States is that if the victim does not go along with it, then it does not sell.

Mr D. R. Cooke: A victim will go along with it, likely, within the native community, but if the victim happens to be outside the native community, he likely will not go along with it.

Mr Russell: I am not sure why that has to be the case. I mean, it is an assumption that people make, but I do not know why that has to be the case. I would think that if someone from outside the community sees a situation as largely being right, it makes sense to him, whether he is within the community or from without. One might suggest, "Yes, probably people from outside won't be as willing to go along with it," but—

Mr D. R. Cooke: Does the system in the United States accept people from outside the native community using it, then?

Mr Russell: If we look at the situation in the civil law system, if you have a situation where IBM comes on to the reservation and there is a breach of contract, the tribal court has control over carriage of that problem. They deal with IBM, whether they bring the action or they are the defendant.

Mr D. R. Cooke: You are constantly going to be faced with a problem if you allow this to happen at old city hall in Toronto. If a native person comes up charged with assault and there is an extra diversionary option for him that is not there for another 99 people charged with assault, there is going to be a—I know you can argue from history that we have no right to say it, but the other people are going to say: "How come I had to go to jail? How come no one paid any attention to my possibilities of diversion?"

Mr Russell: I am not sure how it could work like that, because what I had contemplated in the way it works in the United States is for the tribal court to make the decision. So the

individual has to walk into a tribal court. A tribal court would have carriage of it if the action occurred on the reservation, in the state's reserve in Canada. You would not have someone walking in here to deal with it, but it would be more than just allowing an individual to do something extra.

This is a different court system entirely. It will, as it does in the United States, mimic very much state and federal courts. They use federal rules of procedure in the courts, but on a reservation in the state of Montana, in the state of Colorado, they know the rules are different in these courts for the Indian defendant if it is a criminal action. That is understood, because there has been a history and an understanding that in the United States the tribes hold a particular status and it is part of something people have grown up with. If they know anything about constitutional law, then they know much more than most, but they all know that it is different on the reservations, and that is appropriate because of the special status they have.

Mr Polsinelli: I just have one quick question for Mr Russell. I understand that the system you have brought before us is, as you have described in your own words, a parallel judicial system, but putting that aside, are there other methods that the native community uses to resolve disputes outside of what we would consider to be a parallel judicial system?

Mr Russell: There is the use of elders, religious people in the communities, who counsel and have organizations that involve youth as something of a way to avoid kids getting into problems. Yes, there are some sanctions in places such as Ohsweken or Six Nations—there is a traditional element there—the peoples of the Six Nations as well, down in the Montreal area. Yes, there are some traditional ways of dealing with things internally.

Mr Polsinelli: Do you have any writing of those methods?

Mr Russell: I do not have—

Mr Polsinelli: Perhaps not here, but do you have any publications or anything of that nature?

Mr Russell: Yes. I could put something together for you, certainly.

Mr Polsinelli: I know I would appreciate it, because the thing that this committee is looking at is alternative dispute resolution systems outside of the court system predominantly. If there are methods that are used by the native communities, perhaps the members of the committee would be interested in taking a look at those, so I would appreciate it.

Mr D. W. Smith: You referred to the US quite a bit. Did you work over in the US to understand their ways, or how did you study their system?

Mr Russell: In addition to simply doing a lot of academic research, I have also travelled in the southwest United States, Arizona, New Mexico and so forth. I dealt with Indian tribal peoples coming up here or by visiting as well New York state, Washington and so forth. It has been somewhat varied.

Mr D. W. Smith: There is one case—and I only see what I see on television; that is all I know about it—the one down at, I think it is Cornwall, where they have the lotteries and the casinos. How are they going to resolve that problem? I do not think even mediation or arbitration—how can a first nations band deal with something like that? How do they work out their problems on the reserve? That is pretty major, if you ask me. Can they handle that themselves, something that large?

Mr Russell: I am not sure how to respond to that without recognizing what has caused some of the problem. Essentially, for those not familiar with the situation, you have a reservation on one side, the same people on the other side on a reserve, also some of it in Quebec, and you have tribal chiefs involved from the United States who have a jurisdiction, and Canadian as well. In the United States they have different laws that allow people to go around with guns. Because it is of a civil law nature, on the reservations in the US they can decide they want to set up casinos, bingo halls. They do it, and this is common.

However, what has happened there, from my understanding, is that there has been a criminal element from New York which has put up the casinos, using Indians from the American-side tribe, to make some money, because it can be done there. They simply launder their money through there and they use it as a money-laundering and profit-making venture. The Indians, if you will, are being used, but they are making a lot of money at it.

One of the problems, however, is a lot of the youth quitting schools and going to work in the casinos as well. There are people who say, "This just isn't the way we want to build our community, premised upon the gambling, the casinos and indeed money that is being made that we're not getting." In excess of 80 per cent of the funds from the gambling go elsewhere. They do not know where, but they anticipate; they know who some of the people are.

So that is the nature of the problem. As a consequence, you have such effective catalysts in there—first, finances—but, second, a criminal element which is helping to finance and supply guns, so there is a certain degree of terrorism going on now on the American side by the peacekeeping group over there, the Warriors, and they are the ones who are sustaining the problems, I think.

What is the answer to that? I think it has to be something where the Warriors are going to have to somehow see that this just does not make sense. It is hurting the community, but they are making such a big buck out of it. I think that encapsulates the problem.

1730

Mr D. W. Smith: I know this is a little off the beaten track, but I was asked this by one of the past chiefs of the reserves in my riding, and I do not know, maybe I do not understand the native peoples' thinking, and yet I have been associated with them for, I guess, all my life pretty well. I guess when we are talking to try to solve problems, this person is suggesting that the band vote for the people in elections. This is where I say I do not know whether I understand the in-depth thinking of the native people, but if you want to talk about alternative dispute resolutions in some areas, good heavens, to me it would be opening up a can of worms if someone was suggesting on one of the reservations that the band should vote for the people in provincial elections, for instance. I mean, is that a common thought among some of the band council members around?

Mr Russell: Who would be voting for whom?

Mr D. W. Smith: The people. The band would vote for the people. I have never heard of it before.

Mr D. R. Cooke: They cast one vote for all of the people on the reserve?

Mr D. W. Smith: Yes. The band would vote for the entire population, the voting age population.

Mr D. R. Cooke: Why would they do that?

Mr D. W. Smith: This is why I ask. If we are going to settle a dispute in some other areas, that, to me, is going almost too far, but this was a past chief who was suggesting it. He seemed to get along fairly well. I wonder if you had heard that any other place. It might be a little off track, Mr Chairman.

Mr Russell: I have not heard that. However, I think some years ago during a provincial election, there was an organization of a number of the bands where someone decided that if the band members came out and voted, it could have serious implications for who would successfully win in those ridings. So what happened in that election was that there was a galvanizing of some interest by the bands' members and they went out and voted, and I think a point was made.

I think what might have been the case, and I do not know who this chief was, but maybe the value of that block voting was what they saw. But I have never heard of anyone suggesting that the band chief or council be given essentially proxy votes. I have never heard of that, no. The idea might be, though, "We could vote in a block and have some impact," and that was proven in that election, but I have never heard of that suggestion.

Mr D. W. Smith: Well, I do not know how far it got into all the councils, but that was a past chief who was talking to me about it and he was working on it.

Mr Russell: Maybe that was why he is a past chief.

Mr D. W. Smith: Well, I think he quit for other reasons. There might be more than I knew of, I will admit that.

Ms Montagnes: I would add that it is a suggestion I have never heard either.

Mr D. W. Smith: He really caught me off guard when he asked me, because I thought I knew him. I have known him all my life. When I was a kid I played ball in the men's team and he played for the band and we had a good relationship. I could not believe what he was telling me, but I said, "Okay, well, if that's what you're doing, carry on."

Ms Montagnes: I would think the community members would be most reluctant to give up their individual say.

Mr D. W. Smith: I would think so. Thank you anyway.

The Chair: I am interested in a little bit of information on the Indian courts in the US in terms of how their jurisdiction works. Do the native peoples have a choice of legal system? In other words, whom does it apply to? Whom is it mandatory upon to use the Indian courts, or is it mandatory upon anyone?

Mr Russell: The type of court that exists on the reservation is determined wholly by the tribal council and the people. They will set it up. They do it through a process based upon their sovereignty. Whether it is done through a constitutional instrument or just simply a legislative enactment, they create that system as they want it to be.

To whom does it apply with regard to jurisdiction? It depends whether it is a criminal law action or a civil law action. If it is a criminal law action and you have one Indian who is the defendant and one who is the victim, only tribal court has any jurisdiction with two Indians involved. If it is one Indian and a non-Indian, the Indian defendant and a non-Indian victim, federal government and the tribe have jurisdiction. The federal government can prosecute the Indian defendant in that instance.

The Chair: How is that decision made as to who will prosecute?

Mr Russell: That is simple case law, the judicial reasoning over the years. That is when you have an Indian, in both instances, who is a defendant. If you have two non-Indians on the reservation, the state has control over that. There is a great deal of debate about that. Again, it is a criminal action, a non-Indian defendant and a non-Indian victim. If, on the other hand, it is a non-Indian defendant and an Indian victim, the tribe has no jurisdiction, it is either federal or it is state. So you have four different situations that people can be involved in.

The Chair: If we are looking at it from the point of view of person X who happens to be either Indian or non-Indian and there is an occurrence of one type or another, does this parallel system create a lot of confusion and uncertainty on the parties, like, "Where do I go, what law applies?" and so on? In other words, is there a very significant tradeoff here in the sense that you have one system of justice, maybe with some accommodations to Indian peoples or whatever, but the one system creates a certainty as opposed to a lot of uncertainty but gives you more, I guess, autonomy as native people? Is there a tradeoff there?

Mr Russell: I think there is not so much uncertainty among the people involved in the system, whether they are judges, clerks or policing officers, whether they are state, federal or tribal. They know the laws. That is very much the situation here.

The Chair: So the point of view of person X who happens to be—

Mr Russell: The person who is a defendant, if it is a criminal action and if this person is non-Indian, knows he will go to either a state court or federal court, but he knows the tribe does not have control if he is non-Indian. If he is an Indian, he knows maybe the feds will take it. If they do not, the tribes are going to prosecute him. When you are either Indian or non-Indian and those are your only choices, that is fairly straightforward, and that is what the jurisdiction is.

For all Indians in civil law, no matter what, it is all tribal. But if it is a non-Indian involved as one of the litigants, the person is subject to the tribe's jurisdiction if the person does something which injures the health and welfare, the integrity of the political situation or the economic situation of the tribe or if he simply agrees to become involved in the transaction on the reservation. Those are the only four standards that exist. They are fairly straightforward. The last one is, as I said, if IBM came on in a civil action—they did something negligent, breach of contract—it knows that it is going to be subject to the tribal laws. In that instance, that is fairly certain.

The Chair: I am very interested in, I guess, the nuts and bolts of your recommendation to this committee. You basically say on page 9, "We hope that our presentation will cause this committee to consider recommending that a comprehensive review be undertaken into the feasibility of a separate justice system for native people in this province."

If we, as a committee, were inclined to make such a recommendation, what does it mean, first of all, in terms of scope, in terms of time, the nature of the report, and perhaps cost? Is there anything that you could give us that is already prepared in written form, maybe some preliminary reports that you are working on that you refer to at the beginning of your report, that would give us some assistance? What concerns me at this point is that if we were so inclined to make that recommendation, maybe we would not exactly know what we were recommending the Legislature get involved in. So I would really like

you to enlighten us on what that recommendation entails and what you think it means.

1740

Mr Russell: With regard to time and cost, I do not know. I think there is a great deal of information there. I think the big thing is that there has to be a government interested in looking at it. I made a representation five or six years ago on this issue and no one was interested. At the provincial government I spoke to people. Everyone thought it was just pie in the sky. It is not quite so high any more.

I would like to see a provincial government interested in looking at the matter, first of all, and interested in hearing representation. This is not even bare bones. This is to try to catch someone's eye to start to talk about something. There is much we are producing with which we think we can persuade people of the merits of a system. Not necessarily this or that, but something can be put together and it makes sense that something should be. That is out there.

I do not know as to the costs; I do not think it should cost a great deal of money. I think first has to be the interest. There are organizations. There have been cutbacks to the Indian organizations, so because there are different ones in the provinces in both Metis and first nations, maybe there is some money to be involved in that. I am really not the best person to look at it.

The Chair: My sense is, and I am trying to be helpful here to myself and to the members of the committee, that if we are so inclined to make that recommendation, we ourselves have to have some understanding of the scope of it. If we are talking about comprehensive review of feasibility of a separate justice system and we look at the preceding provisions of your brief, and we are really talking about quite a comprehensive parallel legal system with courts and appeal courts and so on and so forth, it is quite a major undertaking. I am not saying that the fact that it is a major undertaking would lead us not to make the recommendation, but we should be aware of the nature of our recommendation if we do make it.

Mr Russell: Yes.

The Chair: You are basically saying that you want to look at the feasibility of setting up a parallel justice system, I guess more or less along the lines that exists in the United States. I am not saying identical, but that general premise or model of framework.

Mr Russell: Yes, there would probably be a fair bit of agreement on that within the native community. Something like that would be very good, yes.

The Chair: My next question is, can you indicate to the committee and for the record, I guess, the extent to which native peoples, in Ontario in particular, but in Canada, would strongly recommend that particular provision of your brief?

Mr Russell: Whether they would or would not strongly recommend?

The Chair: To what extent? To what extent is there strong support for that type of review?

Mr Russell: I think there is very strong support for that, and not just within first nations but within the broad native community from the territories, Metis, the Prairies and Ontario, yes.

The Chair: You indicate: "Alternative dispute resolution mechanisms are the major research focus of the Ontario Native

Council on Justice in the current fiscal year. It will continue to be the major research focus in the next fiscal year. A series of reports are being produced." Basically, can you indicate at this point in time if the substance of those reports will be the recommendation of a parallel justice system, as you are suggesting we review?

Ms Montagnes: I would think that certainly it will be one of the things that will be explored in our research. The reason we have alternative dispute resolution mechanisms as the major research focus of the council is that the membership of the council, the council itself, agrees that this is our number one priority. We are in a situation at the present time where there has been a lot of feeling in the native community that this is where the council should place its focus: looking at alternatives to the current justice system, which has not served native people well. We have the report from the Canadian Bar Association, *Locking up Natives in Canada*. A recommendation from that report, which you may well have seen, recommended looking at a parallel justice system for native people.

We have the recent report of the Race Relations and Policing Task Force from here in Ontario, which recommended that the government of Ontario initiate a tripartite task force—how do they say it?—for the purpose of studying the feasibility and necessary structures and processes of native justice systems in Ontario. We have been told that this recommendation fell outside the mandate of the task force and therefore it would not be followed up by this tripartite arrangement.

The Chair: I am trying to be helpful here and trying to get some understanding. I would interpret your recommendation, when it says, "cause this committee to consider recommending that a comprehensive review be undertaken into the feasibility of a separate justice system for native people" as being a very major undertaking. You are talking comprehensive review and you are talking of establishing a separate parallel justice system. I would infer that you are almost talking about something similar to a royal commission or a major task force undertaking looking to it. I am just wondering—and again I am not prejudging what the committee may or may not recommend—is there anything less than that or in terms of a recommendation, or maybe more focused, that you might recommend as a possibility of what we could recommend in terms of ADR?

Ms Montagnes: One of the things that I think could be addressed more quickly and more reasonably than a huge review would be to look right here in the province of Ontario at what customary ways of resolving disputes there are in some of the native communities in the province. The Ontario Native Council on Justice developed a proposal to look at alternative justice systems. In that proposal there were three different components. One was a review of the literature, a look at what models were in existence, something that Dan Russell is now working on.

Another component of that research proposal was to do field work in the communities so that we did not just hear from people in those native communities about how things get done but actually had observations made, real field research done in the province as to what those dispute resolution mechanisms are, what those customary ways of resolving disputes are in the communities today as opposed to how things used to be. We have been seeking funding to do that piece of work. We have not been successful in obtaining it as yet.

Research of this nature was carried out in Saskatchewan, I think about three years ago, so that those people who are in the community, who know the customary ways of settling the dis-

putes, could be talked to and their input could be had before they simply died. Here in Ontario, I see that as a very great lack. It has not been recorded what many of these many customary dispute resolution mechanisms are.

Mr Russell: I would just offer an experience I have had. I was legal counsel to a committee that toured the province approximately four years ago and reviewed the liquor licence laws of the province. It was at that time chaired by Steven Offer. We held meetings throughout the province listening to representations made from all peoples, the business industries, religious groups and anyone who lived on a street where there might be a bar, where they wanted to have a bar or wanted one gone. I would think that something of that nature is one way to address this. There would indeed have to be some consultation within Ontario of the native communities to ask for input, if you will, comments that might address questions such as: "What traditional ideas could there be in such a system? What would you like to see? What are some of the difficulties you would have?"

1750

I do not think it needs to go as far as a royal commission. I think there might be some need to consider alternative systems outside of Canada. The first and easiest and the least financially strapping is looking at a few in the United States, and there are different ones throughout the states. I do not really think that it would take a great deal more than that for what we are asking. As I said, I do not think it needs to be on the size and scope of a royal commission.

The Chair: Can I ask to what extent this particular request has already been made and to what extent it has been dealt with? I am talking about your request for "a comprehensive review...into the feasibility of a separate justice system." To what extent has that request been made already to this government or any previous governments? Is it under active consideration by any other provinces? Is there also a request to the federal government to set up the same type of review? I think it is relevant for us to know that. If in fact your group has requested the federal government to do the same thing, we would not want to do it in isolation. Similarly, it would be, I think, in everybody's interests to know whether or not this request has been made by other native peoples, to other provinces, and whether there is any active consideration being made to establish that type of review.

Mr Russell: I do not know.

Ms Montagnes: I know the aboriginal justice inquiry in Manitoba report has not been released yet, so I cannot say what the recommendations might be there. That might well be one of

them. I know the council has not, at this point, made that recommendation to the federal government.

The Chair: The other issue is, I guess, that because presumably a parallel system, or a separate system, as you call it, would involve, as do the Indian courts in the United States, criminal law, which is a federal jurisdiction, it would be advisable that if this review would be undertaken, it perhaps should be a combined federal-provincial undertaking.

Mr Russell: I think there is merit to that. My only concern would be that if they did not want it, they would want to drag their feet with that and hold it all back. For example, there are enough people in this town that you could sit a few lawyers down and say, "What would be some of the difficulties that there might be in trying to develop something of this nature, given the federal jurisdiction of criminal law?" You could have some ideas forthcoming. I do not know that I would have to have, in that room, federal lawyers necessarily involved, although their participation in any review of this nature would be beneficial, of course. I would not want to make it contingent necessarily upon them if this government felt it was a wonderful idea.

The Chair: But presumably, if it is preferable to go the joint route, then that could conceivably be a recommendation of this committee, with an option that if the federal government was not so inclined, we could recommend doing it alone. But that is something that we would have to discuss internally when we are drafting a report.

Are there any further questions from any of the committee members? Any concluding remarks that the presenters would like to make? If not, then I certainly want to thank both of you on behalf of the members of the committee for your presentation. It has given us food for thought. I am sure we will have some good internal dialogue on it when we are drafting recommendations. I appreciate the fact that you did come. Even though it came in late, it will be given equal weight with the presenters who came in earlier. I think you can rest assured of that, so thank you once again.

Ms Montagnes: Might I ask when a report might be expected from the committee? As I have mentioned, the council is working on a series of papers in this area and we would be pleased to share those with the committee.

The Chair: I think there is a sense—and I do not think I am speaking out of turn—that we would like the report to be sooner rather than later for a number of reasons which I will not go into. So I think we are going to expedite it. Thank you very much. The committee is adjourned.

The committee adjourned at 1756.

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Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Thursday 17 May 1990

Standing Committee on Administration of Justice

Organization

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le jeudi 17 mai 1990

Comité permanent de l'administration de la justice

Organisation



Chair: Robert Chiarelli
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday 17 May 1990

The committee met at 1015 in committee room 1.

ORGANIZATION

The Acting Chair (Mr Kanter): I would like to call this meeting to order, a meeting of the standing committee on administration of justice.

As you all know, this meeting was called on very short notice by order of the House yesterday that we be authorized to meet on the morning of Thursday 17 May 1990 for the purpose of organization.

It is my understanding that there is very substantial anticipation that Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, will be getting second reading in the House this afternoon and will be referred to this committee.

It is my assumption that this is the purpose for which we are holding the meeting this morning, the purpose of organization, and that what we ought to be considering are the dates of meetings to consider the police bill: hours, times, time per delegation, those types of organizational issues; second, issues of advertising; third, issues of budget, an interim budget or a budget we might want to present.

I might just ask if all members of the committee have a couple of items, one of them a report of the business subcommittee, adopted by the committee on Monday 26 March, that lists a number of groups that it was recommended be provided notice of public hearings. I just want to see if all members have that report. Is that generally available? It appears to be.

Second, I want to ask if all members have a copy of a draft advertisement headed, "Notice of Hearings, Bill 107, Police Services Act, 1989." Do all members have that draft document? Okay.

Mr Sterling: Just on a point of clarification, I am sorry, I was under the impression that this was a subcommittee meeting and it was not a committee meeting. I do not want to quibble, but—

The Acting Chair: As I understand the order of the House yesterday, on motion by Mr Ward it was ordered that the standing committee on administration of justice be authorized to meet in the morning. I know that came very closely before the 6 o'clock adjournment hour and it happened very quickly.

Mr Sterling: Okay. I was too busy being concerned about what was being done to us on Bill 68.

The Acting Chair: There are always many things happening in the House. I can appreciate that.

If we could perhaps get down to some of the issues before us, as I understand from some discussion with the clerk and from some newspaper reports, it is at least possible that we may be asked by the House to report back to it on 18 June. That would leave us four weeks. I think we would not expect to sit next week because that is constituency week. That would leave us the week of 28 May, 4 June and 11 June to meet, and the committee normally meets on Monday and Tuesday afternoons after question period, which would allow us two and a half hours, approximately, each of those days.

I also understand from the clerk, and you may want to check with him, that there is provision to have evening meetings on Mondays. I think further consent or approval is required. Standing and select committees may be authorized by the House to meet on Monday evenings to hear submissions from the public, provided that the motion authorizing that committee to meet is made at the unanimous request of the committee and with the agreement of the House leader of each of the recognized parties in the House. I just wanted to put that information before the committee before we begin discussion on this subject.

1020

Mr Kormos: I have the newspaper article as well. It is the one that says the Liberals do not govern by opinion polls; they run this province on headlines. That was the column in the Sun.

Mr Sterling: I did not get a copy of that one. Did the chairman hand that out?

Mr Kormos: I suspect you were speaking of the Globe and Mail article by Richard Mackie that said that the committee studying the act "is scheduled to report on 18 June and all three party House leaders indicated they hope it can receive final passage before the Legislature adjourns for the summer on 28 June."

We in the opposition have been looking forward for a long time to seeing second reading and participating in it and, more important, getting down to consideration in committee of the new Police Act. It seems to me that the rush here, the urgency, is generated by the shooting of young Neal by a Metro police officer, and the Solicitor General is covering his butt and calling upon this committee to help him in doing that.

I am concerned that the period of time allotted is insufficient to have a healthy and thorough hearing of all persons who want to participate. I am concerned because it appears that this committee is quite capable of accommodating, let's say, Toronto area participants. This Police Act is far more than just dealing with matters endemic to the Metropolitan Toronto area. It is about policing in the north, in native communities, in small towns, in areas where communities cannot afford their own police forces and are utilizing the services of the OPP. It is about the concerns that have been expressed to me from across Ontario by small communities when they see their OPP services being cut back, when they see police stations being shut down at 5 in the afternoon or eliminated completely. It is about the transfer of police officers, OPP officers, from the north down to traffic service in the south. It is about the cost of the implementation of Bill 187 and what that has done to police forces like Niagara Regional Police Force and others.

So I am concerned that the period of time that is suggested by the newspaper article is going to be allowed is inadequate. However, I am prepared to wait and see what response there is to the advertising and to the publicity surrounding this committee. Indeed, it is entirely possible that there are few enough persons and groups wanting to participate in the hearings that we can accommodate them during the brief period of time. But I think this committee has to be prepared to be appropriately

responsive to the prospect of there being more than just a few persons and groups wanting to participate. We are going to have to be prepared to assist participants who have to travel from the north in view of the fact that we are obviously not going to be travelling while the Legislature is sitting.

We are prepared to co-operate to the end of getting this committee process under way and having the hearings and getting the bill back into the House for third reading, but not at the expense of the hearing process. At that point I am going to object very strenuously. But it remains to be seen what the response is to the advertising.

Mr Miller: I just want to make a point here. I raised a question in the Legislature with the Solicitor General last week in regard to Tillsonburg, where the police commission is designated by the council. They were concerned about the legislation and would like to have input. I would just like to put that on record here now, to make sure that they get that opportunity. I do not want to rush. I heard what my friend said over here. I think it is important that we do get enough time to make sure we get input from outside of Toronto and around Ontario. I agree with that because this is going to be a significant change, and I think it is a change for the better. But I think we want to listen to those outside the metropolitan area.

I think it is important that we move quickly, and we could make some comments about the time. We could have had more time but for some other issues, but we will not raise that now. We just want to make you aware that there is concern outside of Metropolitan Toronto on the overall legislation.

Mr Sterling: I guess I will be echoing the sentiments of both of the members who have spoken. Bill 4 was in front of this committee, I guess, almost a year ago, and that was a second attempt by the government at the police complaints procedure. I hope Bill 107 is more perfect than their two previous attempts at dealing with this situation, but it appears that everyone in politics is now throwing up the prospect of Bill 107 as an answer to the problem of the police with visible minority groups. I think it should be absolutely clear that this bill is going to do nothing that would have improved the situation in Metro Toronto, because we already have a police complaints process in the Metro Toronto area, presumably which would have covered the situation which has arisen most recently.

We are quite willing to do just as Mr Kormos has said and proceed as quickly as possible and throw our reasonable energies behind seeing this have its proper hearings. I want to say a couple of things, though, about it.

Number one is, we absolutely demand that the Solicitor General himself be here during those hearings. We have just come through what I consider a most unfortunate situation with Bill 68, the government and everyone acknowledging a most important piece of legislation. During the committee hearings we were reluctant at that time to put forward amendments because, quite frankly, a parliamentary assistant does not have the same flexibility and power to accept amendments.

I asked the Minister of Financial Institutions whether or not he had read all of the submissions on Bill 68. He admitted in the Legislature that he had not read all of those, and so we had the government go ahead with a piece of legislation just in the very recent past, and in fact we will not finish with it until Monday, where we have people coming in and making the effort to make public submissions before a committee of the Legislature; we have ministers who are ignoring those briefs by not reading them or reviewing the tapes, as could have been the case, as most of the hearings on Bill 68 were in the Amethyst Room and

were televised; we have in Bill 68, through the process, not one opposition amendment accepted to Bill 68. So we are most adamant that Mr Offer sit through the hearings, sit through every brief and sit through the clause-by-clause.

Bill 4, when I participated in that piece of legislation and the committee hearings that took place surrounding it, did not attract a lot of submissions dealing with the prospect of putting the police complaints process across the province. But there was one very important difference between Bill 4 and Bill 107. Well, there is more than one important difference, but there is one very important difference, and that is that under Bill 4 it was optional for a municipal council to opt into the police complaints process.

Bill 107 makes the complaints process mandatory across the province, and I can tell you, from my talking to police forces across the province, talking to police commissions across the province, talking to community leaders across the province, that it is nowhere, in my view, unanimous that the police complaints process is suitable for all communities in this province. Be it Tillsonburg, be it Prescott, be it Brockville, be it Cardinal with a two-man police force, be it Kemptville with a four-man police force, be it any other jurisdiction, they are going to want to have their say as to whether or not a process which is appropriate for the city of Metropolitan Toronto is in fact appropriate for them. I think they have a good argument that maybe it is not appropriate for them, number one, not having the same situation and, number two, it just not being a practical situation in those parts of the province.

1030

Therefore Mr Kormos makes a very good point. Let's see what kind of response we get. I am not speaking for my caucus now, because things have happened quickly and we have not had an opportunity to caucus this kind of decision, but I can tell you that another option that we might consider is, if in fact there is a lot of interest and people do want to come forward, I, for one, as a member of this Legislature, am quite willing to come back here in the middle of July to pass this for third reading if that is necessary.

If the Speaker deems that this is an emergency, he has every right to call this Legislature back under our new standing orders. I am quite willing to agree to that. I do not think it is going to be necessary, quite frankly, but I will tell you that the government will run into problems in setting down time frames and holding the opposition to reasonable limitations if it acts like it did on Bill 68. You are going to run into conflict if you start trying to cut off debate after two days in the Legislature as you did on Bill 68. You are going to run into problems on this one as well. I hope that does not happen.

As to the hours which we sit over the next ensuing weeks, I suggest that we do not make a decision to extend hours at this time. I do not know, number one, whether it is necessary and, number two, whether that is convenient to the people who would be coming in front of the committee. So my suggestion on that end would be for us to go ahead with the advertising as proposed, attached to the minutes of the subcommittee of 21 March 1990, and the other part that Mr Arnott, our clerk, has drafted up on Bill 107. I can think of no other groups to notify as per the minutes. I think you pretty well have them all there, but if any member of this committee comes up with any additional groups to be notified, I suggest we leave that option to any member of the committee to be able to go to the clerk and say, "Please notify a single group" or a number of associations or concerns that can be grouped into one clump, as long as Mr

Arnott, of course, can identify within reason who those people are.

So I suggest we advertise, and I suspect that some of the groups that were in front on Bill 4, the main ones, probably would be capable of making a presentation on fairly short notice. We can start with them and then see how it works out from there, and concern ourselves with either sitting in extended hours or extended sittings after we get some kind of feedback.

The Acting Chair: Could I just ask for clarification? When you speak of advertising, would you be speaking of advertising in all daily newspapers in Ontario, English and French, as required?

Mr Sterling: And the weeklies.

The Acting Chair: All dailies and all weeklies?

Mr Sterling: Yes. The weeklies are the ones that go into Cardinal, Prescott, Kemptville, Winchester, those kinds of areas.

The Acting Chair: I understand your suggestion. I am just wondering whether we could ask the clerk if that is acceptable. Is that feasible?

Clerk of the Committee: If that is the committee's wish.

The Acting Chair: If that is the committee's wish, then that should technically be possible. Is that a formal motion that we advertise in all daily and weekly newspapers in Ontario?

Mr Sterling: Yes, that is my motion.

Mr D. W. Smith: How long do we normally have to advertise? A week?

The Acting Chair: Mr Arnott, do you want to comment on that?

Clerk of the Committee: Do you mean in terms of advance time to have the advertisement placed?

Mr D. W. Smith: The weeklies would have to be notified tomorrow, I presume.

Clerk of the Committee: That is right.

Mr D. W. Smith: So you have advertised for one week, is that it?

Clerk of the Committee: We will have them placed as quickly as possible. That would certainly mean within the week for dailies and as quickly as possible for weeklies or community newspapers.

Mr Leone: I suggest we include in the newspapers the ethnocultural press, and add also the Canadian Ethnocultural Council to the list of people who will be notified. That is an umbrella organization for 38 umbrella organizations of each group. I think they can contribute very much to this kind of bill.

Mr Sterling: I am quite willing to include those matters with regard to the ethnocultural press as well. I would assume they are weeklies, or whatever.

The Acting Chair: I am in the hands of the committee. If there is a general consensus, perhaps we should vote on this motion at this time and then continue the general discussion.

Mr D. R. Cooke: No, I want to speak to it.

The Acting Chair: Okay. Mr Cooke and Mr Smith are down to speak before we vote on the motion.

Mr D. R. Cooke: I know from experience—and Mr Arnott can correct me if I am wrong—that advertising in all these media is going to take at least a month to get an ad placed and seen in that media. We have tried to do it faster than that and we have failed. I would suggest, with respect, that the major concerns would be met by doing the direct mailing that has been suggested by the subcommittee, but making certain that it is a very inclusive mailing.

For instance, when talking about law associations, I think you need to include all criminal lawyers' associations in all communities, including the provincial body. I would suggest that you might even consider mailing to all policemen and all lawyers in the province. I frankly feel that would be much more valuable than placing advertisements at considerable expense, which are not going to be read, in a number of newspapers that we have found, time and time again, do not elicit a response.

I would also suggest—we have apparently a time frame of one month—that we make it clear to the House leaders that we as a committee are available to sit extended hours, whatever that means—whether it means night sittings or weekend sittings—and to do that the moment the bill passes second reading; and that we instruct the clerk to do the direct mailings the moment the bill passes second reading. I think that would be a much more effective way of reaching those who are interested than sitting back for a month, placing the advertising and then coming back on 14 June and saying, "We haven't got time before 18 June."

The Acting Chair: I think I understand the general thrust of your comments that we emphasize a very complete direct mailing and perhaps not as complete advertising, but did you have a specific suggestion or motion on Mr Sterling's motion? That is, would you support at present all dailies but not weeklies?

Mr D. R. Cooke: I intend to vote against Mr Sterling's motion. Hopefully, it will be defeated and I will be moving at that time that we instruct the clerk to place these notices in the mail the moment the matter is referred to this committee, which I hope will be later today.

1040

The Acting Chair: I do understand your motion with respect to direct mailing. I am just not clear. Are you suggesting we do no advertising in the press at all, or just advertise in the dailies?

Mr D. R. Cooke: I have no problem with doing some advertising that might be able to be placed within the next couple of days in any newspapers, and I accept Mr Sterling's concern about small police forces and the fact that they need to be heard. I have had a lot of communication with some of them and there needs to be more communication in that regard.

If there are newspapers where advertisements can be placed in a very short period of time, that is fine, but experience has shown that this is something that just cannot be turned around in a couple of days.

Mr Sterling: I can phone my weekly paper and get an ad in it tomorrow.

Mr D. R. Cooke: Then let's place an ad in your weekly paper and in the Cardinal paper and in the ones that we can get. But it seems to be the process here that we have to go through an advertising agency and invariably there needs to be a lot of time taken. Was that not correct, Mr Arnott?

Clerk of the Committee: I have not had recent experience in advertising in ethnocultural papers or in weekly newspapers. My understanding is that the placement times have certainly been shortened and we have not had problems with the advertising company in that regard, as far as I know, recently.

The Acting Chair: Mr Arnott, could I ask, would it be possible to enter into some sort of arrangement whereby you would place ads in all dailies and all weeklies that would appear before a certain date, perhaps a one- or two-week period? Would that be a possibility that you might investigate? If an ad would appear within two weeks, it would be placed and if not, it would not be placed. Is that a possibility?

Clerk of the Committee: If the committee wishes.

The Acting Chair: I just want see if that is technically possible.

Mr D. R. Cooke: I think this is an amendment to his motion.

Mr Sterling: Getting an ad in three weeks from today is still relevant and I hesitate to cut it off. I would just like to leave the motion as it is and say that the clerk act in a responsible manner. If it is not going to hit the papers until four weeks, then you do not do it.

Mr D. W. Smith: I think the things I am going to talk about are likely mainly mentioned. I thought I heard Mr Cooke say that he wanted all the policemen notified. I would think the police forces would be sufficient in that way, but I would think we should try to get the ads in the paper by next week. After that, considering the speed with which this bill is progressing, I think it would not be any use to advertise in the week of 28 May.

I think we have to work as quickly as we can but I think some of the people maybe even should be telephoned by the clerk's office to make sure that some of these people that you feel want to make a presentation should be given every notification possible, or we may be criticized later on for it.

The Acting Chair: Mr Kormos for a second time.

Mr Kormos: It is to the motion.

The Acting Chair: First time on the motion. Sorry. We expect to hear from you at whatever length. Have you had some phone calls on the subject already?

Mr Kormos: Not that I am aware of.

You have AMO as one of the recipients of direct mailing. In the very same sort of thing that Mr Cooke is talking about in terms of time constraints, AMO has some difficulties, once it gets that information, in then getting it out to the municipalities. I am wondering, in view of everything that has been said—this is sort of to the motion—due to the fact that Mr Sterling is quite right, that every newspaper, daily, biweekly or weekly, should be advertised in, if it is not reasonable under the circumstances to also direct mail to the municipalities in view of the fact that AMO may have difficulty getting that information out. Under other circumstances they would not.

Mr D. R. Cooke: I think it would be cheaper to be doing a lot of mailing than placing some of these ads, and you would be getting to the source of the concern. I endorse that idea. There are 800 more letters there, Doug.

The Acting Chair: It was 839, or something like that, at last count.

Mr Kormos: It was 839 fine municipalities.

The Acting Chair: I am just wondering if the clerk would like to comment on some of the suggestions he has heard and let us know if he can find a motion out of the discussion that we have had.

Clerk of the Committee: The motion I have heard was Mr Sterling's, to place advertisements widely in all dailies, weeklies and ethnocultural press. Specific suggestions have been made in addition as to organizations or municipalities that should receive notice. There is, from my point of view, no problem with any of that.

Motion agreed to.

The Acting Chair: I think that takes care of the advertising and notice-by-mail provisions. In terms of the dates of the meetings, Mr Sterling, you suggested that we meet at our usual times. I do not think you moved a formal motion. That would be the six daytime sessions.

Mr Sterling: You do not need a motion to meet—

The Acting Chair: No, I realize that.

Mr Sterling: —a week from Monday because we are going to meet then anyway.

The Acting Chair: So you would suggest we keep going this way?

Mr Sterling: I suggest we just start out that way and then see what is coming.

Mr D. W. Smith: If the response of those who want to make presentations, or certain areas or communities, is extra heavy, can this committee go on the road? I know committees have met when the House was sitting before because I have been on them, but is this committee prepared to, or can it, go on the road if we happen to get a lot of presenters or hopeful presenters in certain communities, whether it be the north, the east or the southwest? Is that a possibility, to move the committee out of this place altogether?

The Acting Chair: It is my understanding that committees do not normally travel while the House is in session.

Mr D. W. Smith: Not normally, but they have done it.

The Acting Chair: I think it would be a question that the committee might want to keep to itself if there was a large burst of interest in some area outside of Toronto. There are a couple of possibilities. People could be brought in with some financial assistance or we could go there, but I think it would require consent.

Mr D. W. Smith: I was just thinking it might be easier for the committee to travel to some northern community or eastern community than it would be to bring them all the way down here to Toronto. I just leave that at your discretion and consideration.

Mr Sterling: No, it is not at his discretion.

The Acting Chair: I think it is in the committee's hands.

Mr Sterling: No. Actually, what happens is that it is not in the committee's hands. It is in the House leaders' hands, and the House leaders are very reluctant to allow the committee to do that. I think this is a prime example. I do not think this is as much of an emergency as some of the politicians are playing it up to be, since we have had this bill for three or four months and it has not really been on the agenda until this most recent incident. The idea is that you can strip our ranks. We are only 17 and they are 19 in terms of numbers and we cannot start

travelling the province while the session is on, the whole reason that committees do not travel is so that members can do what they are supposed to for their constituents here. I have yet to see the House leaders agree to that. I do not think they have agreed to it very often.

Mr D. W. Smith: It was 1985-87 that I travelled.

Mr Sterling: When we were sitting?

Mr D. W. Smith: Yes.

Mr Sterling: I cannot recall which bills—

Mr D. R. Cooke: You had more members then and it was not as great a problem.

Mr Sterling: Yes, it is a practical problem as well. I challenge you some time to name those specific instances. Just speak to me privately because I would like to know. I do not think we agreed to it very often.

Mr D. W. Smith: I was up in Thunder Bay, if I remember correctly. I was through the north for two or three days.

Mr Sterling: While we were sitting?

Mr D. W. Smith: Yes.

The Acting Chair: I think there has been some agreement to meet here in Toronto and to see what transpires; to see if there will be any necessity of changing that. Thank you for your clarification, Mr Sterling. That does require the House leader's approval. I appreciate that.

1050

There is a question which the clerk has brought to my attention. He advises me, and it has certainly been my experience, that normally on the first day—that would be 28 May in this occasion—there is an overview of the bill presented by the minister and/or ministry officials. Would it be appropriate to do that the first day and begin hearing depositions on 29 May? Would that be something that the committee would want to do?

Mr Kormos: Here I am going to echo and endorse what Mr Sterling has said about the presence of the minister. I guess that would be the initial test. It is important—and again I join with Mr Sterling in that regard—for the minister to be present throughout this process. It is especially important for him to be there, for instance, when this overview is provided. So again, I agree with that. I do want to mention I understood that among the first persons being sought as participants was Mr Lewis, in view of his contribution through his report. We will be presenting to the clerk any other proposed participants by way of a letter to the clerk, but I would mention right now that it would seem important to me that people representing the Ontario Police College in Aylmer be called upon, in view of what Mr Lewis says about training and training practices, and in view of the fact that that would be a logical successor to Mr Lewis in terms of witness lineup and one that should logically precede many of the other participants. That is why I mention that now.

Mr Sterling: I usually find the discussion, particularly if the clerk picks the first few who go to, sort of, the guts of the bill, of more benefit than an official from the Attorney General or Solicitor General's office coming and trying to walk us through it. I do not know how useful those sessions are, quite frankly. I can read the bill as well as anybody else. If there is not a great deal of expression of interest to present on 28 May, then fine and dandy, but I would prefer just to leave it to the clerk's discretion as to what he does: maybe a half-hour or a three-quarter hour presentation by the Attorney General and a

couple of witnesses. But if we are, in fact, trying to get on with this thing, I do not want to adjourn at 4:30 pm after we are all tired of hearing a boring story of going through the bill.

The Acting Chair: Any further comments about the first day's proceedings? I think I have heard some suggestions: a brief presentation by the minister; some presentations by ministry staff, including staff of the Aylmer police college who are employees of the Ministry of the Solicitor General; and Clare Lewis should be a very early witness, on the first day if possible. At the discretion of the clerk, I think that is the consensus I heard. I do not think we have to discuss that further. As for time per delegate, is there a normal time period of 30 minutes or something along that line?

Clerk of the Committee: That certainly has been recent practice at this committee on bills it has dealt with.

The Acting Chair: Is that satisfactory, gentlemen?

Mr Kormos: In my sad experience with the standing committee on general government and Bill 68, we saw some very prestigious participants, some of whom came great distances, who were then confronted with this 30-minute time limit which really turned into a 15-minute time limit because there had to logically be some time reserved for questioning, and even when it was a mere 15 minutes that only left five minutes per party. Although I could basically live with that, it would seem to me necessary that we reserve to, let's say, the subcommittee the right, or indeed the obligation, to consider that in the instance of some participants, that 30-minute period might be waived and extended. There are going to be people who have meaningful things to say and to whom it would be much of an insult to have them come here and say, "Okay, your 15 minutes are up, pal." That is more than rude; it is a waste of the time of those people. I would hope you would reserve to the subcommittee that power.

Mr D. R. Cooke: That is the first good idea he has had.

Mr Kormos: Perhaps this morning.

The Acting Chair: Any comments on that? Suggestions? It seems to be a 30-minute time limit, subject to variation by the subcommittee. Mr Clerk, do you have that? Do we need a follow-up motion for that?

Clerk of the Committee: That is fine. That is an agreement.

The Acting Chair: Okay, by agreement. The only other thing I have on my agenda, I believe, subject to suggestions by the clerk, is a budget. What sort of budget would we be looking at for this advertising?

Mr Sterling: Could I suggest, because we are trying to proceed fairly quickly with this—quite frankly, I have only flipped through the act, not knowing that it was going to come on for second reading. I have not paid as much attention to it as I might have had I known it was going to be there.

I suspect there will be a lot of comment regarding detail on the bill—Who is appointed to the commission? How many commissioners? Who hears appeals in certain kinds of circumstances?—all of that. If we could have our researcher, as we go through it, accumulate comments, as she and others have done on bills, and present to us maybe on a weekly basis a cumulation of what has been said on section 3 or 33 or 303—I doubt if there are 303 sections—I think that would be of great assistance to us in forging any amendments to it.

I think on a bill like this, if the government is smart, it will listen and amend in certain areas. How many sections are there in the bill?

The Acting Chair: About 133, as it turns out, Mr Sterling.

Mr Sterling: So there is a lot of detail in this, and I think it is important to collect that detail as we are going because there will be repetition as well during the hearings. I would appreciate it, if it is not too great a task, if as we approach each Monday we have sort of a summary of the to-date statements on each section.

The Acting Chair: I think our researcher has a question on that.

Ms Swift: Just a point of clarification, I guess. Is what you like to have a summary of the evidence really rather than a summary of the recommendations, or both? Normally we would do a summary just of the recommendations, but you want some indication of the evidence that has been made with respect to certain sections? Is that right?

Mr Sterling: No. What I would prefer is: "Section 3: The Ontario Police Commission says that it should be amended to include the word..."—whatever it is—or "Section 4a: Such-and-such a group recommends that this be deleted"—those kinds of things. Then I can look to their own individual briefs and get their actual words if I need to remind myself of the reasoning behind it.

Ms Swift: Okay. That is no problem.

Mr Leone: I want to express some apprehension before we proceed to the budgeting and all this kind of committee work. We are dealing here with a very important bill, and I would not like to see, for the sake of rushing to react to a particular situation, us not trying to get the right information and coming up with a defective bill.

My suggestion is that we give an opportunity to listen to many people concerned with this act and probably it will be necessary to have chiefs of other jurisdictions, from countries too. This bill will affect the relation between society and the police and order, we have to come up with a good bill because Canada is different from any other country. That is my suggestion for this committee. As a member I feel that we should proceed with very great caution because we want to come up with a bill which will solve many of the problems that we have today.

Mr D. R. Cooke: Mr Smith has suggested that we travel to Romania to see how it works there.

The Acting Chair: I thank the member for his suggestion.

1100

Mr D. W. Smith: How come you use my name? You were thinking it too.

The Acting Chair: We are going to try to do as complete an investigation as we can, subject to some time constraints that we may have from the House this afternoon.

Mr Kormos: I cannot agree more with what was just said. It has been said so often by the Solicitor General that the existing Police Act is one that we have lived with for decades; that what we are seeing here is similarly something that this province is going to have to live with for a number of decades. It is going to have a significant impact on a whole pile of things. It is not narrow; it is broad. Its impact is going to be not just on big communities, but on small communities. It is going

to be on police officers, men and women. It is going to have an incredible impact for years and years and years to come.

I think all of us have the concern, because of the tragic events that occurred over the last few days, that this is being rushed for the sake of—well, I guess for a number of reasons. But that is the saddest part of it. You will recall the comments made in the House when this act was finally announced. You will recall the comments made by opposition members about the lack of a bill from the two previous solicitors general and the fact that that was a matter of contention on the part of the opposition. We are going to create serious problems if this is rushed without the attention, deliberation and thought that it requires.

Yes, I suspect that some of the provisions of this bill are new and creative efforts on the part of the Solicitor General's staff and on the part of legislative counsel. I suspect that other parts of it are modelled on other jurisdictions. It would seem incumbent on us then at least to inquire as to their effectiveness in other jurisdictions. It may not necessitate travelling there, but where there are provisions that are similar to what has been tried and tested elsewhere, we should be looking at how that has worked and under what circumstances.

I will say right now, I am concerned that the period of time allowed is simply not sufficient. We have been talking about accommodating participants, witnesses. We have not talked about how we are going to fit into this time frame a meaningful clause-by-clause debate and discussion of amendments, which will undoubtedly flow out of the hearing process. We are going to have some real problems and I am very concerned about them. I appreciate what was said.

Mr D. S. Cooke: That is a good point as well. I am wondering, to start, if legislative research could undertake a survey of other jurisdictions to determine how they dealt with this sort of problem. I am sure it has been faced. Obviously, the United States comes to mind perhaps more than other Canadian jurisdictions, although we could look at Quebec. I do not know. There have been similar problems in Quebec.

Ms Swift: Certainly I could undertake a survey and provide that to the committee. I guess I would like some clarification on what problem you are referring to exactly. What part of the bill is it that you want us to compare to other jurisdictions?

Mr D. S. Cooke: Problems of citizens' complaints, problems of attitudinal concerns on the part of some police officers, commission structure.

Mr Sterling: I just want to make it clear that I agree with Mr Kormos totally. This urgency has been created by the government. It has not been created by anybody else. In 1986 I asked the then Solicitor General when he was going to bring in the new Police Act. He told me it would be six months later.

As Mr Eves said in the House yesterday, we have needed in this province, for instance, court reform for years and years. The Attorney General brought in Bill 2 and Bill 3 last year, as you may remember. But then he insisted, after a long, long period of time considering the reforms, on ramming them through in a very, very short period of time. When you do that, you invite further amendment and you invite problems. The proof was in the pudding, because by the time Bill 2 and Bill 3 had finally gone through the process, we had over 50 amendments, and not minor amendments; some were substantial.

We had to actually bring in a bill in November of last year to amend Bill 2 and Bill 3, which were introduced in May of that year. So while everybody says, "We need police reform, we need a new Police Act," and all the rest of it, there is a certain

pace that is wise in travelling when you are going through these processes.

What we are doing is seeing a bill introduced in December—fortunately there has been some time for gestation and for people to have a look at it over that period of time—and now saying, all of a sudden, bang, “This is the top of our priority.” This was not a priority of the government until yesterday or the day before. You really do open the prospect of problems arising out of what you do. It is a very serious matter, and I would rather go at a slow and even pace when you are going through the process.

The groups that will come in and generally comment on a justice piece of legislation—on Bill 2 and Bill 3, for instance, they were really good groups. They were not groups that were saying, “We have a particular political agenda in which we are trying to amend this piece of legislation.” They were concerned about the nuts and bolts, how it was going to spin out, how it was going to work and how the sections intermingle with each other. I suspect we will get the same kind of briefs on this.

If you do not allow enough time to pass, then you do not allow the groups to properly marshal themselves to look at these things in a serious manner and work through the nuts and bolts. One of the great parts about our justice system is that the people involved, the lawyers, the police, the bench, all of them, when you come down to the final analysis, while they all have self-interests in their own little area, they all want to see that the system does work for the public good in the end.

You can marshal all those forces and it does not cost the government one red penny. They want to help. I just hope this is not like Bill 2 and Bill 3 and that they have had a chance to look at it, because these people are busy people. The people who come in here and make the substantial briefs are people who do not have a lot of time on their hands and, therefore, they usually do not deal with an issue until it is on their plate. Now they have found it is on their plate. I just hope we have enough time.

What we are dealing with is an election issue. It is short and simple. A black was shot early this week. This is a government reaction to pass a piece of legislation. Then they can say next September, “We have handled this problem.”

Mr D. W. Smith: This is speculation, Norm. This is all speculation.

Mr Sterling: That is what is happening.

The Acting Chair: Thank you, Mr Sterling. Mr Miller and Mr Cooke.

Mr Miller: I am just pleased to take part in this little bit of debate. As one member of the Legislature, I have been sitting around here all spring and things have not been happening. I think one individual has taken over, although I am not against opposition having the right to have a say.

I think what happened the day before yesterday was unfortunate, but it has really brought this Legislature to some common sense and we have been able to sit down. It made me feel good last night to see everybody agreeing that we should be moving ahead with a piece of legislation that should be dealt with and that has been on the order paper. I have read it over and everybody has had that opportunity.

As I indicated, we have had a concern expressed from my municipality that it wants to have input into it. They are concerned. I think that is good, but the last few weeks were a waste of time, in my view. An election is going to come some time. It may be this year, it may be next year. We have a four-year term. That is not necessarily saying that there is going to be an elec-

tion. As members, I think we have a duty to provide good legislation for Ontario.

I heard some comments about travelling around the world, and there is nothing wrong with getting good input, but I think Ontario is still the best place, in my view, to get some common sense, and we can do something we can be proud of. I would like to use the Insurance Act as an example. It is a made-in-Ontario bill. You may complain about it, but let the people respond to it after it has been put in place, because that is the way our system works.

The Acting Chair: Mr Miller, you are speaking to the matter of the organization of the justice committee.

Mr Miller: I know I am.

The Acting Chair: I just want to remind you in case—

Mr Miller: But they were talking about making some movements to make sure we get a fair bill. I want to have my input. I am not a member of the committee but I am a member of the Legislature, and I want to make my views heard very strongly. I support law and order. Again, as an individual—just one step further—when a policeman stops me, I respect that. I think we have to send the message out that everybody, no matter who you are in Ontario, has to respect the law. In some instances, I am not sure that is being carried out and it causes problems.

The Acting Chair: Mr Cooke, I am sure you are going to speak about the organization of this committee.

Mr D. R. Cooke: Yes, I am. It was Mr Sterling who indicated that this is an election issue, but I think Mr Sterling may be on stronger ground in talking about Bill 2 and Bill 3 and the way they were dealt with. Perhaps he can give us some benefit of how the previous government dealt with these situations, but I think we may be losing sight of something in this particular regard, which is that Judge Lewis had full hearings, the transcripts of which, I presume, or certainly summaries, we would have access to.

Judge Lewis brought his report down in April of last year and we had eight months of input into that report. When the bill finally came down, if I am not mistaken, I think 46 out of 47 recommendations were accepted by the government and included in the bill. So there is not a great deal of surprise in what we are dealing with here and there is not a great deal of newness to the issues.

I have heard response to the bill and I take it other members have too, but what we are hearing is not new. If we hear something new now, then we will listen to it. This is not typical for the sort of legislation that is coming through this Legislature in that there has been an incredible amount of input prior to it coming down.

The Acting Chair: Thank you, Mr Cooke. I think you raise a good point. I know the report is available. I believe that either submissions or perhaps transcripts are available as well and it might be something that our research person should acquire and perhaps make available to members on request, or something like that.

Mr D. R. Cooke: Maybe we can invite everybody who spoke to Judge Lewis to speak to us again in case they feel that he did not listen.

The Acting Chair: I think we have had quite a full discussion of this matter. The one item that remains before the committee is the budget. The clerk has suggested a budget of \$25,000 for advertising and \$10,000 for witness expenses.

My understanding is that either of those figures could be varied subsequently should they prove inadequate. I think we should have a motion for a budget, either as suggested by the clerk or in some other amount as suggested by the committee.

Mr D. R. Cooke moves a budget of \$25,000 for advertising and \$10,000 for witness expenses.

Motion agreed to.

The Acting Chair: Is there any other business before the committee? If not, I will accept a motion to adjourn.

The committee adjourned at 1114.

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Hampton, Howard (Rainy River NDP)

Kanter, Ron (St. Andrew-St. Patrick L)

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Substitutions:

Leone, Laureano (Downsview L) for Miss Nicholas

Miller, Gordon I. (Norfolk L) for Mr Chiarelli

Clerk: Arnott, Douglas

Staff: Swift, Susan, Research Officer, Legislative Research Service



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Legislative Assembly of Ontario

Second Session, 34th Parliament

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Official Report of Debates (Hansard)

Monday 28 May 1990

Journal des débats (Hansard)

Le lundi 28 mai 1990

Standing committee on
administration of justice

Police Services Act, 1989

Comité permanent de
l'administration de la justice

Loi de 1989 sur les services
policiers

Chair: Ed Philip
Clerk: Tannis Manikel

Président : Ed Philip
Secrétaire : Tanis Manikel

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 28 May 1990

The committee met at 1533 in room 228.

POLICE SERVICES ACT, 1989

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services and to consider the report of the Race Relations and Policing Task Force.

The Chair: Order, please. We have a pretty full agenda, so we are going to try to keep to our schedule. The standing committee on administration of justice is now in session and I would like to make some preliminary remarks to set the scene for the committee's consideration of Bill 107.

The standing committee on administration of justice today begins concurrent consideration of two matters referred by the House. On Thursday 17 May 1990, the Legislature gave second reading to Bill 107, An Act to revise the Police Act and amend the law relating to Police Services and referred the bill to this committee for review.

Following the referral of Bill 107, the Legislature then passed the following order: "That the report of the Race Relations and Policing Task Force be referred to the standing committee on administration of justice for review concurrently with Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and report; that during its review of the said report and Bill 107 the committee be authorized to meet concurrently with the House or during any adjournment of the House, subject to the agreement of the House leader and the chief whip of each recognized party; and that the committee shall report Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and, if the committee wishes, its comments or recommendations with respect to the report of the task force on race relations and policing to the House on or before Wednesday 20 June 1990."

For the information of those present here today the committee's order of reference has been copied on the back of today's agenda if you want to have a look at it.

As directed by the Legislature on Wednesday 16 May 1990 the standing committee on administration of justice met on Thursday 17 May for the purpose of organization with respect to its hearings on these items. For the record, I would like briefly to review the instructions given by the committee and actions taken.

First, hearing dates, times and location. The committee agreed to meet at regular meeting times, that is Mondays and Tuesdays from 3:30 pm to 6 pm at Queen's Park until the required reporting date. The committee agreed to add meeting time as warranted by public response to committee notices and advertising. The committee agreed that each presentation should be scheduled for half an hour subject to waiver of the time limitation by the subcommittee on committee business.

Second, with respect to notice of hearings, as directed by the committee on 26 March, notice of the committee's hearings have been sent by mail to the following: the Canadian Bar Association, Ontario; all police chiefs, associations and governing bodies; all law associations; human rights organizations; associations representing private investigators; Association of Municipalities of Ontario; law schools; all presenters, oral and

written, on Bill 4; lists of contacts requested from members of the standing committee on administration of justice; the Ministry of the Solicitor General; Ministry of the Attorney General; Office of the Ombudsman.

Furthermore, as instructed by the committee at its organizational meeting a week and a half ago, notice has been sent to all heads of municipalities and municipal clerk-treasurers. In addition, lists of contacts were requested from the office of the public complaints commissioner and notice was duly sent.

Third, with respect to advertising, the committee agreed on motion to direct the placement of advertisements of the committee's hearings in Ontario daily, weekly and ethnocultural newspapers. Accordingly, advertisements have run in daily newspapers beginning Friday of last week. It will appear in all weekly newspapers this week and in ethnocultural papers beginning this week and no later than 12 June.

The subcommittee on committee business met, and I will deal with the particular minutes of the subcommittee meeting. The subcommittee recommended that the committee add the following meetings on Bill 107 and the task force report subject to approval of House leaders and whips. That is the point that I mentioned about adding some hearing dates, because it appears as though we have almost a full agenda at the present time and the requests are still coming in. I would ask the committee members or some member of the committee to move adoption of the subcommittee report.

Mr D. R. Cooke moves the adoption of the subcommittee report.

Mr Kormos: Mr Chairman, I think these sorts of things should appropriately be discussed before they are voted on. It compels us to talk about this whole process. When the subcommittee, at the very last minute, starts talking on an ad hoc basis about extending hours on given days, the fact is that this committee is sitting while the House is sitting. We, the whole bunch of us, are going to have a great deal of problem today, because there is a very important bill being pushed through the Legislature by the government: Bill 68, the auto insurance bill.

The fact is that the only reason this committee is sitting now is because a kid was shot by Metro police a couple of weeks ago and this is the cheapest and most shallow political response to a tragedy, something that could have been dealt with a long time ago. It has nothing whatsoever to do with the Police Services Act and the pressure on this government to push this Police Services Act through this committee and into the Legislature before 28 June comes solely from this government's eagerness to appear to be doing something, when in fact the government is doing and has done virtually nothing.

1540

Mr Chairman, you are asking this committee to endorse changing standard sitting hours when in fact the solution and the proper way to approach this whole bill, Bill 107, would have been for this committee to have sat during the two summer months, July and August, and for this committee to travel across the province where we hear from more than just chiefs of police and heads of police associations, so that we hear from

cops who work on the street on a day-to-day basis, so that we hear from cops in communities that have police forces of two, three and four persons, so that we hear from the northern communities that are becoming, quite frankly, more and more poorly serviced by the OPP because this government is moving OPP personnel from the north into other parts of the province, and so we can look at native policing and the very special problems that are associated with that in a very thorough way.

You will recall that last week I spoke to this committee requesting that there be some attention paid to the process at the Ontario Police College in Aylmer in terms of training. I am going to be suggesting to you, Mr Chairman, that in addition to the attendance of one of the staff persons from Aylmer police college, Aylmer police college make available to this committee all of its material that is used in the training of police officers.

It remains that the period of time that has been allotted or insisted upon by the government for consideration of this bill is grossly inadequate. I look at the agenda and I do not see any time for clause-by-clause consideration. Does that mean we are going to have a meaningless period of committee of the whole in the Legislature where only the government is permitted to move amendments, just like Bill 68, where not one of the opposition amendments was given any consideration?

Your request, Mr Chairman, to extend by mere hours the sitting hours of this committee reflects the shallowness, reflects the total unpreparedness of the government in putting this bill before this committee. It was a rush job. It was rushed forward because it was a cheap, pathetic response to a tragedy that was not dealt with properly in the first instance; that is to say, before it happened, not after it happened. Bill 107 has nothing to do with the shooting of the young Neal child. It has everything to do with major reforms in policing in this province and what you are purporting to do and what you intend to have us do is ram it through this committee in a period of some three weeks with two or perhaps three days a week of the committee sitting. It remains that then this province will be left with less, probably, than what it has now because it will have a Police Act that was designed for political expediency rather than designed to meet the policing needs of the community.

So I do not understand it and I would like you to justify how you can ask this committee now to extend the hours by one or two hours on any given day, to extend the days by one or two days a week, when in fact the reality is that the period of time that has been provided for consideration of this bill is grossly inadequate because, among other things, it will not permit all those persons wishing to make submissions to participate and it will not permit this committee to travel.

Do not tell me that it is not important for this committee to go to northern communities, to go to small communities, to go to native communities across Ontario. You are going to hear from the chiefs of police; you are not going to be hearing from the cops on the beat. Those are the most important people in the system.

The Chair: I have two other speakers who want to speak to the point, but I will raise a point of order on my own behalf before I call the other speakers.

First of all, I think the reference was made to the chairman asking for certain conduct of proceedings to take place. I want to reiterate that what I asked for was approval of a subcommittee report which unanimously agreed to extend the time for sittings, as has been indicated. That included the representative of the third party. I might add that, Mr Kormos, you were absent from that subcommittee meeting which unanimously adopted that additional time frame for the committee hearings.

I will ask Mr Polsinelli to speak next.

Mr Polsinelli: I was going to point out that the subcommittee was composed of one representative of each of the parties plus the chairman. If the opposition was not happy with the terms of reference, it would have had the majority on the subcommittee to issue another report. Since you did not do that, I am simply going to ask Mr Kormos whether or not he is speaking on his own behalf or on behalf of his party, because as I understand it, our terms of reference with respect to this bill have come down to us from the Legislature.

If Mr Kormos is speaking on behalf of the New Democratic Party, then it is a matter that should be taken up with the House leaders from all three parties. I think it is very important for us at this time to know whether Mr Kormos is speaking on his own behalf or on behalf of the NDP. If he is speaking on behalf of the NDP, perhaps what we should do is defer the proceedings this afternoon and have the House leaders resolve this question.

The Chair: There is a motion on the floor to approve the subcommittee minutes.

Mr Polsinelli: Mine was a question. It was a question to Mr Kormos and I would appreciate your directing that question to him: whether he is speaking on his own behalf or on behalf of his party. I think it is important for the committee members to know that.

Mr Kormos: I will answer that question. I will answer the first one about the subcommittee meeting which was set unilaterally and for which I advised the clerk I would be unavailable and requested that the time of that meeting be changed. Once again, that shows how ill-prepared the government was to respond or deal with Bill 107. These subcommittee meetings are being set at the last minute, haphazardly.

Second, yes, I do speak on behalf of the New Democratic Party sitting as the opposition here because the New Democrats are as eager as anybody could ever be to ensure that Bill 107 receives thorough and complete consideration in this committee. The fact remains now that you see your agenda and you see the incredible number of people who want to participate, and we are told that the advertising has not even appeared in the vast majority of media, it makes it clear that the period of time the House leaders may have agreed upon an issue was grossly inadequate. Anybody who supports that is doing a gross injustice to communities across the province.

Mr Polsinelli: I think we have here the semblance of a constitutional crisis because we have a unanimous reference from the House, from all three parties, all members of the Legislature and no objections, and now the spokesman for the New Democratic Party is telling us this reference is incorrect. I think we should have a question going back to the House leader as to whether or not we should abide by the instructions given to us by the House or whether or not the NDP at this point is changing its position.

Mr Philip: I have a point of order, Mr Chairman.

The Chair: I have a list of speakers and Mr Polsinelli is on for speaking. If he is finished, I will go to the next speaker in order, who is Mr Kanter.

What is your point of order, Mr Philip?

Mr Philip: If Mr Polsinelli had checked Hansard, he would have seen that Mr Kormos was consistent in what he said today with what he said in the House on that Thursday when this was debated.

The Chair: Excuse me, that is not a point of order; that is a debate. Mr Kanter, would you proceed please?

Interjections.

The Chair: Order. Mr Kanter has the floor.

Mr Kanter: Members of this committee, including the representatives of the official opposition, met a week or so ago and decided on a course of action to take with respect to this bill. We decided to advertise broadly because of the expected broad public interest, and that is under way. The clerk has done that. Within the short time frame established by the House leaders of all three parties, including the official opposition, the clerk and the chairman have acted as responsibly as they could in trying to get information out about this bill.

I think it is unfortunate if members of the official opposition were absent from the meeting. I think the clerk made every effort to schedule it at a time when everyone could attend. I also understand there has been a great deal of consultation behind this bill with all the affected parties, with all the interest groups and with all the stakeholders. I expect that will become clearer as we begin to discuss this bill.

Mr Chairman, what I find really difficult to understand is what Mr Kormos's objective is at this point. You have asked that we approve the report of the subcommittee, that we extend hearings and that we allow more opportunity for discussion, but that we do it now and that there are a wide number of reasons to proceed at this time: the extensive consultation the government has engaged in and certainly some of the recent events as well. I think they have to be seen in the backdrop of the wide consultation of the Lewis Race Relations and Policing Task Force. I see Mr Lewis is present here today.

I certainly would be opposed to any motion or intimation by Mr Kormos that we delay this matter and not deal with it at this point. I will be supporting the motion that I believe my colleague Mr Cooke put and I would hope that all members of the committee would move to support the motion to proceed on this very important issue at this time.

The Chair: There is a motion on the floor and I have two speakers, Mr Philip and then Mr Runciman.

Mr Philip: Mr Kanter has said there has been extensive consultation. I chaired the hearings in the first police complaints bill when Mr McMurtry was the Solicitor General and Attorney General. I think we saw some consultation then and we saw hearings in which various parties were contacted and where they did have some advance notice.

We have had a bill that was tabled on 20 December and we have not had anything happen. As a matter of fact, it was considered low priority. It was not on the government House leader's list of priorities of bills to deal with before the recess—in other words, before the election. That is how important this bill was to the government until we had a rather sad incident in which a young man was shot.

1550

What we have here is a bill that is tabled. A majority of the major decisions of this bill are going to be done by regulation and we have not even had the regulations tabled. I have experienced consultations on bills before and far be it for me to support the previous Conservative government, but at least McMurtry, when he was Solicitor General and Attorney General, did have ways of consulting people and letting them know what the regulations would look like before the public was asked for input. We do not even have the regulations here. The major

things about this bill are in fact unknown. We do not have them before us.

As my colleague the member for Lake Nipigon will no doubt point out when he has an opportunity, many of the complaints in this province about policing deal with the policing of our native peoples. How does a native person have input into this committee sitting in Toronto? Is it the position of the committee that you are going to pay for the native peoples to come to Toronto if they wish to make a presentation to this committee? Are you going to make that open to them? How can you have a major source of concern in our province, namely, the policing of our native community, and not have input from that community either by having the committee go to those communities or at least offering to pay for them to come to see us and make their views known?

There has been no consultation. The only reason this bill is being rushed through is because the government is in a tight spot. That is why they are rushing this bill through. That is exactly what Mr Kormos said on Thursday 17 May on second reading. If my Liberal colleague the member for Yorkview had paid attention, he would have seen that. It is in Hansard. I can even give you the pages.

Interjections.

The Chair: Order.

Mr Philip: There has been no change in position.

Interjections.

The Chair: Order. The next speaker is Mr Runciman. Before I ask him to speak, just for a point of information which I perhaps should have included in my opening remarks, the committee has allowed \$10,000 in witness expenses for people to travel to Toronto should the need arise.

Mr Pouliot: It costs \$1,800 return mileage for one trip from Port Severn in order for those communities—

The Chair: Mr Runciman, you have the floor.

Mr Pouliot: I do not have the floor, but we do not have the cash.

The Chair: Mr Runciman, please proceed.

Mr Runciman: I do not frequently agree with Mr Polsinelli. In one sense I do, which is that I think perhaps we should adjourn the proceedings based on some misunderstandings here in respect to the recommendation coming from the subcommittee. I know my party also has some very serious concerns and reservations about the undue haste—some might say obscene haste—with which the government is proceeding in respect to this legislation.

Both opposition parties have been pressing for some period of time to have this legislation dealt with. The government sets the agenda, as we all know, and for a number of months the government has deemed it appropriate to place Bill 68, its no-fault auto insurance bill, as its number one priority. Because of a shooting incident in Metropolitan Toronto, all of sudden we see this put on the front burner and we as legislators are supposed to deal with this very significant reform, what might be described as a 40-year reform, with its significant implications for policing right across this province, in something like three weeks.

My first reaction to your recommendation from the subcommittee, Mr Chairman, is one of discomfort. I certainly would like to consult with my colleague Mr Sterling to see if his interpretation of the results coming forward from that sub-

committee are the same as yours. I am certain Mr Kormos and his colleagues share the same concerns.

I think we are operating on different wavelengths. If you feel that by simply extending hours of sittings of this committee you are somehow going to be able to tell the public and the police, especially the cop on the beat out there, that you have dealt with this significant piece of legislation in an adequate manner, I think you are only deluding yourselves. That is not going to be the case.

I know we have talked about northern Ontario and I think the smaller communities especially are going to be impacted upon by this. We have seen this happen in years gone by with governments where legislation is passed by this assembly without significant consideration of its implication upon smaller communities in this province.

Too often we see bills drafted with solely their impact on Metropolitan Toronto being the primary focus of the legislation. I think we have to provide in any way we can opportunities for a multitude of people, individuals, groups and organizations who have very real interests and concerns about this legislation, the Police Act, and how it is going to impact on policing in the future in this province. We should be providing them with as meaningful an opportunity to have input as possible.

We have dealt with pieces of legislation in the past two and a half years through a variety of standing committees of this House where that opportunity has not been afforded. Where it has been afforded it was in sort of a window-dressing kind of way, which we saw in Bill 68 where hearings were very severely restricted and witnesses were not paid any attention to whatsoever in respect to the final outcome of the legislation.

When we are talking about policing and its impact on the lives of citizens of this province, I think we have to be much more cautious and much more careful in the way we proceed with this legislation, in the way we deliberate upon it and the opportunities we provide the citizens of Ontario to have input.

Mr Chairman, I am endorsing Mr Polsinelli's suggestion that we adjourn the proceedings for now until both opposition parties can consult with the representatives on the subcommittee to confirm that indeed their understanding of the recommendation coming from the subcommittee was the same as what you have indicated here for Hansard.

The Chair: There is a motion on the floor to adopt the subcommittee report. The next speaker is Mr Pouliot, and after Mr Pouliot is Mr Cooke.

Mr Pouliot: Just briefly, the need to ensure the safety and security of all persons and property in Ontario is not in the preamble. It is in section 1 of the bill.

On 28 October 1988, I brought to the attention of the then Solicitor General, Joan Smith, 29 communities, 30 communities with Kingfisher, that we knew of in our special part of northwestern Ontario without any police forces. I am talking here specifically, for I wish to focus on the needs of our first Canadians, and therefore our first Ontarians. You are looking at here, and I want to share this with you, communities of 250, 300, 500 without any police constable whatsoever.

What this government has done is tell us, "Well, we do not wish to affect the relationship between our first Canadians, our first Ontarians, the crown and the federal government." Some of those communities, namely, Webequie, Summer Beaver, have no police forces and they do not have reserve status. They are not covered by this bill, and I will tell you why in a second. They have band status. They are on their way to achieving reserve status, and therefore they are solely under the jurisdic-

tion of the province. They are on crown land, but on provincial crown land under the auspices and direction of the Ministry of Natural Resources.

I turn to page 4 to indicate to you, with respect again, how flawed some legislation can be if it is not supported by the proper amendment: "'Police officer' means a chief of police or any other police officer, but does not include a special constable, a first nations constable, a bylaw enforcement officer or an auxiliary member of a police force."

What about the less fortunate people? Where is the human dimension in terms of that most essential service and in terms of your mandate that all Ontarians shall be protected? It makes a specific mention, be it by way of contradiction, that when it comes to native communities, those people will be ignored. What mechanism do you have in place to make sure that representation will be given to our first Canadians, our first Ontarians? They are completely bypassed. Where is the minister? Where has he gone now? Mr Offer, come back. Is he gone?

Mr D. W. Smith: It is on the record.

Mr Pouliot: I wish he were on the record. Our experience has been if we go into the minister's office with our amendments, we have to come out of there with his ideas. In the meantime and by way of conclusion, Mr Chairman, I have a letter from the Solicitor General. Get this gem. Catch this, with respect, sir. You will love this.

It says, "In order to maintain the 52% federal and 48% provincial funding formula"—he is talking about the share and share alike where the feds pay 52% for special constables on reserves. Most of them are reserves, many are not reserves, but talking in terms of reserves—"spending cutbacks were implemented. This resulted in a reduction in manpower, cancellation of some training programs and a delay in replacing of purchasing equipment."

So the people that do not have any protection by virtue of their particular relationship with the province and none with the federal government because their native communities have band status but not yet reserve status do not have anything. Furthermore, look at the human dimension here, the intent and the spirit, where this is going. Those who have an arrangement because they have reserve status—the feds pay 52%, the province pays 48%—are being reduced. Then on top of that—

1600

The Chair: Mr Pouliot, if I can interrupt—

Mr Pouliot: I am trying to focus on the bill. What is the time limitation? I am speaking on behalf of people here who are Ojibway, 18% of the riding of Lake Nipigon. This is a very, very important matter and I am their spokesman, sir. I represent that riding.

The Chair: What I would like to do as Chairman, Mr Pouliot, is to bring your attention to the matter at hand which is a motion to approve a subcommittee meeting whose intention is specifically to add additional time for this committee to hear submissions from those people who may yet want to come before it. If you could address your comments to that, we might get to the motion a little bit more quickly.

Mr Pouliot: It seems to me a lot more could be said and I intend to say it.

The Chair: The next to speak is Mr Cooke.

Mr D. R. Cooke: Mr McClelland has an amendment and I will withhold my comments until I hear his amendment, if that is permissible.

The Chair: Mr McClelland, would you proceed, please.

Mr McClelland: I have not got precise wording. Let me just comment briefly about what has transpired here. We have an agenda scheduled to begin at 3:30 this afternoon. There are people here prepared to proceed. There is an issue at hand with respect to the management and the time allocation as we go over the next three weeks. It is my suggestion that we proceed with today. Let us defer this other matter, deal with it appropriately in the appropriate context.

The issue that my friend Mr Pouliot so passionately deals with, let's deal with that in the course of discussion of the bill. Let's get on with what we have here today. We have an agenda before us, people who have come here to deal with the issue. Today is full, tomorrow is full. We certainly have between now and next Monday to deal with the issue before us with respect to the scheduling of other meetings.

I add, parenthetically, that there are seven openings at the present time that we do not have any delegations booked into. Let us discuss that in the appropriate context, deal with that and look at the time allocation over the next three weeks. Today we have people here. Let's move ahead and get on with this. We have wasted, in my view, a good part of half an hour. Some of it has been useful, but my amendment would be to the effect, let's proceed with the agenda for today and tomorrow and put the other in abeyance and deal with it in the appropriate context and let's do it now. I would like to call the question to that effect, Mr Chairman.

Mr Brandt: If I could speak to that point, Mr Chairman, I think that that is a reasonable compromise. My party would be prepared to support that. If we can defer the discussion of the actual process to another day, perhaps tomorrow after we have had an ample opportunity to consult with our House leaders as to the interpretation of what was said, as well as the interpretation of the subcommittee, I think we could make some progress.

I also think that it is a slight against those who have been brought before this committee expecting that they would proceed today with their submissions to tell them that, because of some mechanical obstructions that we have as a collective body, we are going to simply send them all home. I find that rather insensitive and distasteful.

I want to caution my colleagues on this committee, however, that I have some concerns with the way in which the mechanics of this bill are being handled. In agreeing with my colleague with respect to the method by which he wants to arrive at a compromise on this matter, we have some concerns in our party with the way in which the bill was introduced, how quickly it came to the floor.

I say that in light of the fact that we recognize that both of the opposition parties were pushing for some progress to be made on this bill. Second, we have some concerns about how the subcommittee was scheduled and the fact that some of our colleagues could not be present to discuss adequately the workings of the bill and the process at the subcommittee.

Finally, when we get to the process, the method by which we are going to deal with this bill, I have to agree that because of the serious implications that this bill has—part of which relate to cost, I might add, right across this province—we have got to proceed with the maximum amount of input we can get from those communities that will be affected.

This, of course, includes those communities identified by my friend from the north who does have a unique and special problem. But there are other police forces that have a different makeup, a different structure, than perhaps is the case here in Metropolitan Toronto and they have to have their concerns addressed adequately within the context of this bill as well.

In agreeing to what my friend the member for Brampton North has suggested, I do so with the single caveat that we are, I think, legitimately concerned—and I say this to the minister as well and I say this in a co-operative, positive way. We want to bring forward a bill which will serve the interests of the entire province, but at the same time we want to make sure that this bill has an adequate hearing before the public of Ontario.

Having said that, we are prepared to meet with the suggestion of the honourable member.

The Chair: Just to precise, are you suggesting that the consideration of the subcommittee report be deferred until tomorrow?

Mr McClelland: Deferred until after tomorrow's agenda. Let us deal with the agenda we have set for today and for Tuesday.

The Chair: At the end of deliberations tomorrow afternoon if you want to deal with—

Mr McClelland: People are here who have made arrangements to come. Tomorrow in camera, as appropriate at your direction, Mr Chairman, we can proceed with the agenda for the subsequent time and any amendments or additions there are.

The Chair: Are there any further comments on the amendment to the motion? In other words, on the deferral point.

Mrs Marland: Is there some reason that this committee is not meeting in the Amethyst Room where the public would be able to see what is going on?

The Chair: I will ask the clerk to comment on the organization of committee rooms.

Clerk of the Committee: Committee rooms are pre-assigned to committees regardless of the matters referred to the committees. This is the regular meeting room of the justice committee and there was no request to the committee to move to the Amethyst Room.

Mrs Marland: There was no request by the committee to move to the Amethyst Room and we have got this vitally important piece of legislation to the people of this province. It would be possible to move and just exchange with the committee that is in there then, I assume.

The Chair: I think that on important legislation it is important that we try to get it into the Amethyst Room and have it televised, but I simply raise the practical question of when we look over at the monitor now, the House is being televised. I just wonder if the Amethyst Room will make any difference because the committee schedule now is to be sitting while the House is sitting.

Mr Philip: They just tape it and send it on the air on Friday.

Mrs Marland: That is always the case. The Amethyst Room holds—

The Chair: Can we refer that to the subcommittee which will again be meeting to discuss some of these issues? Or do you want to deal with it now?

Mr Brandt: Sure, why do we not do that?

Mrs Marland: I just think it is too important for us not to use the possibilities that we have to share the deliberations of this committee on this important matter with as many of the residents of Ontario as possible.

The Chair: I share your opinion, and we will see what we can do to get it into the other room. Now, there is the matter at hand to defer the subcommittee business until tomorrow.

Mr Philip: Mr Chairman, I am perfectly willing to go along with that. I think we would like an opportunity to hear from the Solicitor General. I do have a motion which I have tabled which is a procedural motion because I am quite concerned about police training in this province and I would like—

The Chair: Can we deal with the other motion first and then I will read yours.

Mr Philip: You have unanimous consent on that.

The Chair: Do we have unanimous consent to defer it until the end of business tomorrow? It is approved? Until tomorrow?

Mr Philip: Sorry, I thought it was carried. The other matter, though, of great concern to me is the fact that we are being asked to deal with and have public hearings on a bill that was tabled months ago, December 1989, and a major part of this bill, I am sure the Solicitor General would agree, relies on the regulatory system. We do not have copies of those regulations. I wonder whether the Solicitor General will table with us those regulations so that we can see exactly what the impact of this bill is before we have hearings on it.

1610

The Chair: Can we be specific on what we are dealing with? You have tabled a motion with me, which I will read, and it does not exactly deal with the regulations. That is a different issue. I will read the motion by Mr Philip.

Mr Philip moves that the clerk of the committee request the Aylmer police college to provide to the committee copies of all its instructional materials and schedules for each course offered by the Aylmer police college.

Mr Kanter: We just moved the agenda and, in that agenda, the director of the Ontario Police College is scheduled to be on tomorrow. I think this would be more appropriately dealt with at that time.

Mr Philip: What I am requesting is that we have a copy of the police college agenda and training materials so that, at least, tomorrow when we have the director of the police college with us we can examine exactly what the agenda is, the schedule is, how many people are being trained, etc. I think that would be a meaningful thing to have before we meet with the director and I am just asking that the material be—

The Chair: Your motion is on the floor. That matter was discussed at the subcommittee at the request of Mr Kormos. In his absence, he did send some instructions that he did want that matter dealt with. Although no decision was made, there seemed to be a consensus that we would have the representatives from the police college here tomorrow, subject to recall, because as I understand it, the extent of the material is very, very great. They suggested you might need a truck to get it here. If that were the case, then we probably could not consider that material to ask intelligent questions tomorrow, in any case. So the suggestion was made that perhaps we ask some questions tomorrow into the nature of this material and have these people recalled at a subsequent date.

Mr Philip: At the very least, we could have a course outline, who are candidates in those courses, the number of hours per course and a general outline of the contents of each of the programs. Now, that does not require their tabling all of their training manuals and materials, but at least if we had something before us so that we could understand what the major curriculum is, who is taking that curriculum and how many hours is devoted to each of the subjects, I think we would have something that would be more meaningful in our questioning tomorrow.

The Chair: Are you suggesting that you amend your motion then to read just what you said, basically that they bring some curriculum material to indicate the nature of their courses?

Mr Philip: And the objectives of each of the courses, the number of hours in each of the courses, who is taking each of the courses, who the candidates are and the waiting list, if any, in order to get on these programs. For example, I would like to know how many courses are being taken, how many people were trained last year in forensics. I would like to know that. It seems reasonable then that they bring a copy of their program.

Mr D. R. Cooke: Phone them and ask them to bring it.

Mr Philip: I do not know why the Liberal members are so reluctant to tip off one of their witnesses as to the kinds of materials that we want, unless we were trying to do a coverup for them.

Mr D. R. Cooke: We are wasting time. I want to hear from them.

The Chair: There is a motion on the floor. Mr Philip just agreed to modify the motion and it seems to me to be a reasonable request. I do not even know if it has to be in the form of a motion, because I think it is reasonable for a member of the committee to request that from the representatives of the police college. If developments tomorrow indicate that more materials should be brought, then they can be invited to come back to the subsequent presentation. Is that agreeable?

Mr Philip: I will accept that and I can meet with Mr Arnott later and discuss exactly what is needed. Mr Offer, though, concerning the regulations—

The Chair: Mr Offer is next on the agenda. We have allowed some time for questions after his presentation, so I will ask the Solicitor General, Mr Offer, to please proceed with his opening comments.

MINISTRY OF THE SOLICITOR GENERAL

Hon Mr Offer: Thank you very much. Before I commence, I would like to introduce Anne McChesney, who is with policy at the Ministry of the Solicitor General.

I am pleased today to provide introductory remarks on Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, to the standing committee on administration of justice. Members of the committee will have before them, I would hope, briefing material which has been provided by the ministry. You will note in the material that what we are talking about today is not an amendment to existing legislation but, in fact, new legislation.

What we have thought, for the convenience of the members, is not only to outline the legislation section by section but also to indicate if there are any co-ordinating sections under the existing Police Act. That we do for the convenience of the members of the committee. We have also, in a further section

under that briefing material, provided some of the new initiatives which are contained within the Police Services Act, as well as some flow charts dealing with disciplinary procedure and the public complaints system.

Mr Philip: Where in this volume are the regulations?

Hon Mr Offer: I hope and trust that this material will prove of some assistance as we proceed through these very important deliberations.

Mr Philip: Where are the regulations?

The Chair: I would really ask the committee members to give the Solicitor General an opportunity for his opening remarks. I am sure there will be a number of questions, which I would ask the committee members to please make note of. There will be an extensive opportunity for questions afterwards. I would simply ask us to deal with our business in an orderly manner.

Hon Mr Offer: Thank you for that courtesy, Mr Chair.

The Chair: The Solicitor General has the floor. Mr Philip, if you want to be the first questioner, I would be happy to put your name down.

Mr Philip: How can he make his presentation when he has not given us all the materials that are needed?

The Chair: These questions can be placed afterwards. Please proceed, and I will put Mr Philip down for the first questioner.

Hon Mr Offer: If I may, Mr Chair, the legislation governing police is fundamentally important to preserving the democratic ideals of our society and to ensuring the safety, security and liberty of every citizen of our province. This proposed legislation therefore requires thoughtful consideration and input from representatives of all parts of our society.

I want to acknowledge and recognize the beliefs and concerns held by the citizens of our province. They have come to place, and rightly so, high expectations on this bill and in the proceedings of this committee. I place great value on those beliefs and concerns and on the obligation of each of us to respond in a sensitive and constructive manner to the compelling issues which have given new focus to our efforts here today.

I want to suggest that this legislation must serve many interests. It must aim to meet the objectives of both the public and police and it must encourage and promote their mutual partnership. Clearly, such a successful partnership will require a careful balance. On the one hand, there is the need to properly equip and support police to enable them to do the job, to meet the responsibilities which we, not only as legislators but as members of the public, put on them. On the other hand, there is the need to advance a modern social agenda which safeguards civil liberties. Without doubt, this is a sensitive and difficult task, but it is a necessary task, one to which each person in this room today is, I know, fully dedicated.

Given the scope of this proposed legislation and its importance to people across the province, continued input and advice on this bill from all interested parties are both welcome and necessary. This proposed legislation before you, the Police Services Act, represents this government's initiative to spell out a new arrangement for policing that benefits both police and the people of Ontario. This proposed legislation affirms the basis for a partnership of police and the citizens they serve. Bill 107 provides, if you will, a constitutional framework to identify the roles, responsibilities and relationships between these partners.

Bill 107 enshrines a new principle of policing which stresses the value and quality of police services. Law enforcement has been and remains a crucial responsibility of our police officers. However, this role has expanded. Police officers are now service providers to the communities they work and live in. The emphasis on service provides the basis for this partnership. The police and the public are partners and they share the goal of ensuring safe and secure communities. This interdependent form of policing has come to be known as community policing. This government has listened to and responded to the thoughtful, reasoned and often impassioned input of the police and the public.

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The bill before you today has benefited greatly from a productive consultation process and by an extensive review of presentations made to the Race Relations and Policing Task Force. We welcome the fact that this task force report is also before you and will be considered concurrently. I want to point out that many of its recommendations have been included in Bill 107. Indeed, in some instances the recommendations have been exceeded.

The spirit of Bill 107 is reflected in the title and in the first section of the act containing the declaration of principles. Each of the other 147 sections of Bill 107 finds its basis in these principles, which serve as guideposts for policing in the 1990s, leading into the next century.

Mrs Marland: I have a point of order.

The Chair: Mrs Marland has a point of order.

Mrs Marland: I am sorry to interrupt my colleague the member for Mississauga North, the Solicitor General, but I see people in the audience who are turning over the speech as the Solicitor General reads it and I am feeling—

Mr Pouliot: Members of the government, no doubt.

Mr Kanter: No, we have not got any.

Mrs Marland: If there are people in the audience who have a copy of the text of what the Solicitor General is saying, I think the very least is that we have the same courtesy extended to us. I would make that request of the Solicitor General, that if we have to recess while he has copies made, then this committee should do that.

The Chair: That may be a legitimate complaint, but I do not think it is a point of order. I think that is a matter that—

Mr Pouliot: It is a matter of courtesy.

Mr Polsinelli: Maybe the members of the audience should stop reading and start listening.

The Chair: The clerk has not been provided with copies of it, so we cannot distribute it. I guess we have no choice but to proceed.

Mrs Marland: I am asking you to ask the Solicitor General if we may have copies.

Hon Mr Offer: I understand the clerk has copies now.

The Chair: They are now being distributed. Thank you. Please proceed, minister.

Mr D. R. Cooke: I just think the record should show that the agenda showed that Mr Offer should have begun at 3:30. He has now been allowed five minutes out of the last 50.

Mrs Marland: So there was lots of time to distribute the copies which we are now receiving as a result of my request, I may point out.

Mr D. R. Cooke: Therefore he should be allowed to proceed.

The Chair: Since the request has been satisfied, I will ask the minister to please proceed.

Mr Philip: It is normal procedure that most ministers have the courtesy to—

The Chair: Please proceed, Mr Offer.

Mr Pouliot: He only has it in one language.

Mr Philip: Roy McMurtry is looking better every day.

Hon Mr Offer: If I may proceed, these principles that I was alluding to, the opening principles under the legislation, are the need to ensure safety and security of all persons and property in Ontario; the importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code; the need for co-operation between the providers of police services and the communities they serve; the importance of respect for victims of crime and understanding of their needs; the need for sensitivity to the pluralistic, multiracial character of Ontario society and the need to ensure that police forces are representative of the communities they serve.

One of the fundamental aspirations Bill 107 conveys is the maintenance and enhancement of partnership and security, a partnership of police and the public to ensure the security of our communities. There are several new initiatives in Bill 107 created to recognize and to strengthen this partnership.

The Race Relations and Policing Task Force recommended a civilian agency to investigate shootings involving police. Bill 107 proposes a special investigations unit within the Ministry of the Solicitor General that will investigate all incidents involving serious injury or death that may have resulted from criminal offences committed by police officers. The unit will be headed by an individual well versed in criminal law and staffed by well-trained investigators to carry out their responsibilities.

Bill 107 proposes a province-wide public complaints system to allow any person in Ontario to register a complaint about a police officer, to have the complaint investigated and to receive a response to that complaint. The provincial complaints office will be headed by a police complaints commissioner who is a civilian. The system emphasizes local resolution but ensures that those complaints that cannot be resolved locally will be resolved by the provincial complaints commissioner.

Bill 107 proposes the introduction of mandatory municipal police services boards which will increase civilian governance of policing. Police services boards ensure that an independent civilian body is responsible for overseeing the provision of the highest standards of policing in a community. Bill 107 proposes to strengthen the role of these boards by empowering them to set objectives and policies for policing, to monitor the performance of the chief of police and to ensure that a proper public complaints system and an efficient discipline system are maintained. The Ontario Civilian Commission on Police Services will replace the Ontario Police Commission. The new commission will be responsible for enforcing policing standards and imposing sanctions when standards are not met.

The government has introduced mandatory employment equity requirements into Bill 107. All police forces will be required to establish employment equity policies, programs and

implementation timetables. The Ministry of the Solicitor General will approve all employment equity plans created by police forces and monitor the adequacy of the employment equity initiatives to ensure that police forces are more representative of the communities they serve. Employment equity means fairness and is a means to effective policing.

In respect of the many diverse cultures in our communities, our police officers need to have a profound understanding of and a good rapport with all people in the community. The Race Relations and Policing Task Force identified the need to improve relations between the police and visible minorities. In the short time since the task force report was released, the government has acted upon many of its recommendations, either through the proposed Police Services Act or through the implementation of special initiatives by the Ministry of the Solicitor General.

Legislatively, Bill 107 would create a special investigative unit, require employment equity plans, increase education requirements for police officers, empower new training standards to be drafted and require mandatory municipal police services boards.

The Ministry of the Solicitor General has already begun to develop a number of initiatives recommended by the task force. In consultation with key stakeholders in the police communities and minority communities, race relations training programs for police and police authorities will be assessed and new training programs will be developed and implemented.

The ministry has established a \$750,000 grant program for joint community-police race relations projects. These grants will assist joint community policing committees to foster improved police-minority relations. In addition, the ministry is in the process of establishing a central recruiting unit. These policies and programs, present and planned, represent this ministry's response and commitment to improving the co-operation and understanding between police and ethnic communities.

I have mentioned the atmosphere of co-operation and consultation which has lent itself so beneficially to the development of this bill. At this time, I should like to make it very clear that this same atmosphere has continued to exist and has been of great assistance to the government ever since the bill was introduced last 20 December.

As a result of our continuing consultations, and most certainly as a result of the public input and reaction to the Race Relations and Policing Task Force and its report, I am pleased to inform you that we are prepared to bring forth a number of amendments to the bill for the consideration of the committee. Among those amendments which we believe are significant are the following, and I question at this point in time whether the clerk of the committee is in receipt of those amendments.

The Chair: The clerk is just checking to see whether he has received them.

Hon Mr Offer: Those amendments are completed and I believe it both proper and necessary to provide them through the clerk to the members of the committee.

We will be proposing an amendment to section 40 which will ensure that the consent of the Ontario Civilian Commission on Police Services to the reduction in size or abolition of a police force is given only where agreement has been reached between a police services board and members of the force to be terminated with respect to such matters as severance pay or where, in the absence of such agreement, the matter has been submitted to binding arbitration.

1630

Second, we will be proposing an amendment to section 52 to ensure that auxiliary members of police forces may perform police duties only in special circumstances, including an emergency, that the members of the force are not sufficiently numerous to deal with. This is in addition to the current requirement in the bill that an auxiliary member be under the supervision of a regular member of the force.

Third, we will be proposing an amendment which will have the effect of ensuring that special constables appointed by police services boards are not employed to perform, on a full-time and permanent basis, all the usual duties of a police officer.

Fourth, we will be proposing a change to section 31 to the effect that it is only after consultation with the chief of police that a police services board may determine the objectives and priorities with respect to police service in the municipality.

Fifth, we will be proposing an amendment to ensure police services boards receive and take into account, on an annual basis, the submissions of the chief of police and deputy chief respecting their remuneration and working conditions.

Sixth, we will be proposing an amendment to section 27 which will enable the appointment to a police services board of a council member appointed by resolution of the council in lieu of the head of the municipal council. Such an amendment recognizes the consistently onerous duties to which the head of council is subject.

All of these proposals and other amendments which will be introduced at an appropriate time were generated as a result of the continuing dialogue that exists among the public, the policing community and my ministry.

These are some of the motions that I wish to draw to your attention at this moment. As this committee proceeds with its review of Bill 107, I am confident that each clause and proposed amendment will be reviewed to ensure that the best possible framework for policing is put forward for third reading.

This government's commitment to achieving the highest level of policing service for the citizens of our province requires the continued input of both police and community representatives. It is vital, therefore, that the police and community leadership represented here today and throughout the hearings, during the next several months, be heard. Only in this way can this new constitution for policing be crafted with the foundation and vision required to best serve our province into the next decade and beyond.

In view of the importance of this bill, I am confident that it will receive thoughtful consideration so that in its final legislative form the Police Services Act reflects the highest ideals and aspirations of the citizens of Ontario. We are not only drafting policing legislation, we are drafting, as I have indicated earlier, what is a constitution for policing to serve as a lasting partnership between the police and the citizens based on safety, security and trust.

The Chair: We have about 27 minutes, according to our agenda, for questions and answers or comments from the committee members. I would like the members of the committee to indicate by a show of hands whether they want to ask questions or comments at this point so I will be able to order the amount of time that I allow each member.

Mrs Marland: Would you not divide it among the three caucuses?

The Chair: However you want to do it, I am in your hands. I just want to get an idea of the amount of time. We have 27 minutes. Fine, we will have nine minutes per caucus.

Mr Philip: Minister, by your own words this is a framework that you are setting up. This bill does not contain the most important information that will affect people's lives, be they police or civilians, namely, the regulations; the standards that will be set under various sections of this act; the criteria that will be used; the selection process of the various parties that are involved in this. Are those regulations ready and will they be provided to the committee?

Hon Mr Offer: In response to Mr Philip's question, I disagree at the outset. This legislation does contain crucially important legislative requirements, initiatives and policies. Second, let me say I think Mr Philip will know, as all members of the committee recognize, that in the current Police Act there are a number of regulation-making powers. They have been expanded under this particular legislation into only 13 new enumerated powers and a number of these involve matters such as fees, inspection, review and procedural matters.

I think it is presumptuous, Mr Chair, and through you to members of the committee, that we talk about regulations pursuant to sections of a piece of legislation before the committee has seen fit to approve those particular sections, and as such we will await the final deliberations of the committee in dealing with what sections are to be passed or not to be passed, what sections are to be, or not to be, refined or amended.

Mr Philip: Let me just read to the minister—perhaps he has not read his own bill—regulations under section 133:

"The Lieutenant Governor in Council may make regulations,

"1. prescribing standards for police services;

"2. prescribing procedures for the inspection and review by the Solicitor General of police forces;

"3. requiring municipalities to provide police detention facilities, governing those facilities and providing for their inspection;

"4. providing for financial aid to police training schools."

It goes on and on and on—all 30. The major items of this bill are going to be done by regulation, and you are asking us to pass legislation, the major thrust of which is that most of what is going to be done will be done by regulation, without seeing those regulations.

I ask you my initial question, are those regulations now in place and if so, why can we not have those regulations before us when we are considering the bill?

Hon Mr Offer: In response to the member's question, the regulations are not in place because it would be presumptuous of the government to craft regulations prior to a piece of legislation being passed by the committee. That is the responsibility of the committee.

Mr Polsinelli: Can I have a supplementary on that?

Mr Philip: Sure. On your own time.

The Chair: With Mr Philip's permission or on your own time.

Mr Polsinelli: I do not think we have any time.

The Chair: I have allocated nine minutes per caucus to ask questions.

Mr Polsinelli: Sorry.

Mr Philip: What you set out is that the major part of this bill is going to be handled by regulations; in other words, by the government behind closed doors, in their own little compartments. You are asking us to pass legislation when we do not even know what the major implication of this legislation is because most of it is going to be done by you without any consultation of the Legislature or the public. Is that not true? That is what you are doing here.

Hon Mr Offer: I am sorry, I did not hear the question.

Mr Philip: I said, is it not true that this is what you are doing here? You are passing a bill, the major decisions of which are going to be made by you without any consultation with the Legislature. If not, what are the regulations 1 to 30 in section 133 if that is not what you are doing?

Hon Mr Offer: As I indicated earlier, I first acknowledged the 30 sections for regulation-making under the legislation. I indicated that much of that regulation is currently under the Police Act which now governs the police in this province. I have indicated, third, that the regulations are not crafted as yet. Fourth, I feel it to be presumptuous to deal with regulations and draw regulations under a particular piece of legislation dealing with sections of that legislation before the committee, which is charged with the responsibility of investigating those sections and deliberating upon them and amending them if it wishes, has done that.

Mr Philip: Sir, I find it presumptuous of you that you would pass legislation, the major thrust of which is that you, behind closed doors, will make all the important decisions without consulting the Legislature or the public. Let me ask you this question. Can you tell us the total cost of this legislation and exactly where the money is going to be spent?

1640

Hon Mr Offer: Dealing with costing, I do not have the costing figure before me. I could certainly undertake to provide it, but I think what we are talking about in this legislation is not so much costing and financial implication as the framework for policing in the future. For the first time, in this particular piece of legislation we are talking about legislation dealing in clear terms with the roles and responsibilities of police officers, chiefs of police, local boards of commissioners and the Ontario Civilian Commission on Police Services.

We are talking in this particular piece of legislation about employment equity plans and making those mandatory under the legislation; we are talking about a framework within this piece of legislation detailing special investigative units and matters of importance as well as a provincial public complaints system. So this legislation is designed to deal and deals with the framework for which policing will continue not only in the 1990s but into the 21st century.

As to any financial implication, I will be more than pleased to provide that information.

The Chair: Just for your information, Mr Philip, there are about two minutes left in your time.

Mr Philip: The minister likes to talk about balances and counterbalances. How do we pass judgement on this bill when we cannot pass an assessment of value for money since you are not going to tell us the cost of the bill or how the funding is going to be spent under this bill? We do not know where your balances are because you do not tell us how much you are going to spend on any one item.

Hon Mr Offer: I take it that is going to be a decision which you are going to have to be making as to whether there is the need for a special investigative unit in this province, whether there is the need to have a mandatory employment equity program in this legislation, whether there is the need to have a provincial public complaints system available to every citizen in this province who wishes or needs to have a complaint raised against an officer and to have the mechanism to do so. I think that is a matter which you, as a committee member with a great deal of experience, are going to have to decide.

Mr Philip: Your party in opposition made that decision and it is quite a different decision than what is in this bill.

Mr Pouliot: In terms of Nishnawbe-Aski townships or communities, such as Wunnummin Lake, Kasabonika, Fort Severn, the northernmost places in Ontario, I do not think anyone has more of a dire need to have their concerns, their voices, heard. Regarding participant or intervenor funding, in your best-case scenario, can you broadly summarize and explain to the committee how you intend to fund the participants from the tribal councils, from Nishnawbe-Aski, for instance, Treaty 9, Treaty 3, from first nations, people from northern communities, and how much money is available?

Hon Mr Offer: For the first time we have specifically acknowledged a first nations constable in this legislation. We have acknowledged the appointment of first nations constables for the first time. There are ongoing discussions dealing with funding, many of which, as you will know, are the product of a joint federal and provincial agreement dealing with funding. We have a great number of examples, certainly with the first nations, dealing with—

Mr Pouliot: Save it. With respect, I do not want to prolong this. I value the minister's time so much that I am going to ask him, with respect, to stop the platitudes. You are not talking to children here.

In terms of this bill, in terms of participants coming to you putting their best foot forward, offering alternatives, seeking protection, how much money will be made available for people to come from the north to address the committee? That is what I am asking.

Hon Mr Offer: With the greatest respect, I assumed the member was asking me a question dealing with the first nations council. If the member was asking me a question dealing with the funding of deputants to come to the committee, that is certainly a decision which the committee should be making and not me. I am only hopeful that we do have a great deal of input.

Mr Pouliot, when you responded dealing with platitudes, which took me by some surprise, I was anticipating that you were talking about the specific section, an important section in the bill. The committee will make the decision as to the funding of people to come before the committee and I hope there is that type of input.

The Chair: If I may interject, Mr Pouliot, the committee made a decision—

Mr Pouliot: You are cutting me off.

The Chair: —to allocate \$10,000 for travel for the members of the committee. If there is some feeling that is insufficient at the present time, that matter can be referred to the subcommittee on committee business. They may want to reconsider the budget to suit the needs that present themselves at the time.

I certainly hope I am not speaking out of turn as the chairman but I would be happy to put that on the agenda at the next subcommittee meeting to see whether there is a need to review the amount of travel budget for witnesses to come. Would that satisfy any of your concerns?

Mr Pouliot: It would. Just one last question, I promise. I can make the same mistake in five languages, I swear. I am going to tell you something: Again with respect to the committee, \$10,000 does not even begin to address the geographic situation of Ontario.

Mr D. R. Cooke: But your party—

Mr Pouliot: One second. Give me a break, David. I live 800 miles from here and in Manitowadge I am closer to Toronto than to some parts of our riding. In fact, in Toronto I am closer to Miami, Florida, than I am to Fort Severn. That is our riding alone. It is about 1,000 miles long. How the heck, if I may be so bold, do you expect the mere, paltry sum of \$10,000 to even begin addressing the needs of people in Fort Severn? We have over 80 communities in the northwest. Those people will never be heard. This is a farce.

The recommendations of the Report of the Race Relations and Policing Task Force find you guilty of sins of omission on page after page. You do not even respect this deadline, and when it comes to race relations you are starting on the wrong foot. I came here seeking the truth and recourse. Those people will be left holding the bag. You will be judged very harshly. Are you going to make a commitment that you, sir—and you have that jurisdiction; you can address these matters with the mere stroke of a pen—will make a recommendation to the committee so that at least sufficient funding will be made available for the people who have less so they can come here to pay you the compliment of their wisdom and, just as important, give you the kind of recommendation that will make it much better and easier for them to, at long last in this context, have their place under the sun?

Hon Mr Offer: Boy, you talk about your—

Mr Pouliot: You do not mean what you say.

Hon Mr Offer: Mr Chair, please—

The Chair: Mr Pouliot, we are running short of time. I simply want to get back to the agenda and indicate to Mr Pouliot that it was a committee decision which was represented by all parties. I have indicated I will put it on the agenda for the next subcommittee meeting. With the permission of the members of the subcommittee, if you want to come and address that issue, you are certainly welcome to do so.

The next speaker or questioner will be Mrs Marland.

Mrs Marland: I would like to ask the Solicitor General, can you identify for me what in this bill addresses the protection and safety of police officers in the performance of their duty? In an increasingly violent world, I am thinking of the prohibition of certain types of guns. Is there anything in this bill that is going to protect the men and women in this province who in turn protect us?

Hon Mr Offer: In response to Mrs Marland's question, I think she touches on an important aspect. Basically we are, through enhanced training, going to be addressing that particular aspect. It is not found within this bill but we have already started six months ago on enhancing training, the courses that police officers take—

Mrs Marland: You are not going to prohibit any types of weapons?

Hon Mr Offer: —so that they are best able and best equipped to meet their responsibilities.

In addition, we have indicated earlier that it is no longer enough that our police officers receive that type of training at the recruit level, at the outset of their profession. Now there has to be a responsibility, certainly of the government, which we have acknowledged, that there be mandatory retraining for officers because the issues are complex and ever-changing. We do address equipment. We do address that type of aspect.

1650

Mrs Marland: With respect, my question is very direct. Is the position of this government that it has no plans to restrict certain types of weapons in this province?

Hon Mr Offer: To whom?

Mrs Marland: To anyone, to the public.

Hon Mr Offer: That will not be found in this legislation.

Mrs Marland: Okay. Are you going to change any policies on certain types of guns?

Hon Mr Offer: Again, I am sorry. I am going to have to ask you, to whom, for whom? For police officers, or for the general public? This is a piece of legislation which applies to the police community, which provides a framework for policing. It does not apply to the prohibited and restricted weapons. That is found under the Criminal Code.

Mrs Marland: Can I just ask you a question? On page 12, you talk about the fact that "the ministry is in the process of establishing a central recruiting unit." How will that work? Do you see down the road where, in order to mandate the balance of recruits in terms of minority groups, experience and other standards, the autonomy of the local, regional and municipal police forces will be circumvented by a central recruiting unit?

Hon Mr Offer: The answer to the question is no. There is going to be a central recruiting unit, which means that anyone in the province who wants to apply not only can apply through the local police department but also would have an additional place to apply. That would be through the central recruiting unit out of the Ministry of the Solicitor General. It would not be a replacement of the very important recruiting initiatives taken on by police departments, but it should be looked upon as an addition or an enhancement for recruiting.

Mrs Marland: If a municipal force is not going to have the kind of employment equity policy that you are happy with, are you going to say, "We've got some new recruits that have gone through our central recruiting unit and these are the people thou shalt hire"?

Hon Mr Offer: It will not work that way. I think what we have to recognize is that for employment equity to work, it must be based on co-operation. We recognize that the particular plans which are devised by the local boards are ones which are very reflective of their particular community, whatever and wherever it might be.

Dealing with the ability to attain the objective which the local board has decided, it may be that if there are not the same types of individuals recruiting into that particular police department, it may wish to ask for any assistance we may have through our central recruiting unit. But that shows, first, how employment equity is based on co-operation and, second, how

the central recruiting unit is one which is an addition to or an enhancement of the recruiting, which must primarily take place by the local community.

Mrs Marland: I will yield the floor; I have had seven minutes.

The Chair: We gave the NDP an extra two or three minutes, so if you want to take the same liberty, I think we can squeeze it in at the other end.

Mr Brandt: I will try to be as brief as I can with the Solicitor General. I have a certain sense of déjà vu about what is being proposed here. I remember full well the time that the Attorney General made it clear to the House from his perspective that courtroom security was not going to cost the municipalities and local police forces any additional money, and in fact courtroom security has cost a substantial additional amount of money, none of which has been funded by the province.

Now, in this particular opening statement that you made, the only reference to dollars that I can see is \$750,000 for a grant for joint community/police race relations projects. That is commendable, other than that it probably is not going to be nearly enough based on the rather wide scope of what you propose to do within the context of this bill.

Earlier, there were a number of questions that were raised with you relative to the parameters of the bill, the anticipated costs associated with that. What you said, and I was listening very carefully to your comments, was that this bill provides simply a framework. However, I think you would agree that, within the context of the framework that you are suggesting, there are a number of moves that can be made, decisions that can be brought about as a result of your office determining that a particular situation is not acceptable.

In other words, the initiative will be shifted very dramatically from a local police force into the office of the Solicitor General, which will make the ultimate decision as to what should be done with respect to a perceived or real situation locally. Is it your intention, putting yourself in a position where you can superimpose a decision upon a local police force, to pay any or all of the costs that are associated with the decisions that you make? Alternatively, is it simply your intention, and I say this with respect, to simply pass the cost on to the local municipalities as you have done with courtroom security and a long list of other things? Where are your obligations within the context of this bill and what have you budgeted—perhaps that might be a more specific question—in order to bring about the changes that you are proposing?

Hon Mr Offer: With respect, I think that you misread the local boards of commissioners. It is not that the powers and responsibilities under the local board are in fact narrowed. We have in this legislation expanded the powers of the local boards of commissioners. That is one of the directions this bill takes.

Mr Brandt: With respect, you have, in a mandatory fashion, superimposed new and expanded responsibilities on a local board. You are saying to them, "Thou shalt now initiate employment equity programs, etc; education, new standards of policing." We are all in favour of that; you have the total unanimous agreement of all parties as it relates to that. But I ask you again, as my colleague from the New Democratic Party did earlier—when you talk about new standards of policing, if you are talking about better-equipped vehicles, better-equipped policemen and a more responsive police force in terms of being a police force which is truly reflective of the racial and ethnic

makeup of a particular community, I have no problem with that. I just want to know who is going to pay, and you have not indicated in one sentence throughout this entire document that you have any intention of doing anything other than passing on the cost to somebody else.

If I am misreading that, I apologize and I will simply step back from what I am saying, but I say, again with respect, that I see nothing in this particular proposal that suggests you are going to do anything other than bring in a whole new series of financial obligations and responsibilities to local governments.

Hon Mr Offer: Let me respond to that in two ways. First, the financial responsibilities for policing will remain unchanged under this legislation. Second, when one talks about financial implications, I think that one has to recognize what we are talking about. As you have used employment equity as an example, employment equity is about the local police department determining that hiring has to take place. They make that decision. By employment equity, we are sending out a message that policing is a profession for all, that everyone should feel able to apply as an officer, that we are talking about removing barriers. We are not mandating in this bill that there shall be X number of officers for any one particular department. That will always be the decision and the responsibility of the local board of commissioners in consultation with the chief of police, as it is now.

1700

Mr Brandt: Whom you can remove, if you so deem necessary?

Hon Mr Offer: We are talking about the decision as to personnel and equipment. That is and will be the decision of the local board of commissioners with the chief of police, as it is now. Yes, when you talk about employment equity and the potential sanctions for that, that is correct, but I believe employment equity will work on the basis of co-operation, as it has in the past. We are going to build upon those particular initiatives. The financial implication, dealing with how many officers are necessary in any one particular area, will remain as it is now, at the local level.

Mrs Marland: Do they have to be university graduates?

Hon Mr Offer: There was a question which I think—

The Chair: Mr Philip has a very short supplementary after that.

Mr Polsinelli: Excuse me, Mr Chairman. I was not allowed a supplementary.

The Chair: It was going to be on the Conservative time, but—

Mr Brandt: If it is still on our time, I would like to pursue one other point.

The Chair: Okay, proceed.

Mr Brandt: In the interests of the type of co-operation we have been exhibiting here all afternoon, go.

Mr Philip: I always exhibit co-operation with you; it is just Mr Polsinelli I do not co-operate with.

Hon Mr Offer: There might have been another time when that was not the case.

Mr Philip: When the Liberals were really progressives. Just a micro-question: Will you assure us of this, that there will be no additional costs that they are not presently paying passed

on to municipalities as a result of any training that will be taken at the Aylmer police college? Will you give us that assurance?

Hon Mr Offer: I cannot give you that assurance. In all fairness—

Mr Philip: So there is more municipal option, more cost to the taxpayers municipally.

Hon Mr Offer: No. Read into it whatever you wish to read into it, but I think that what we are talking about, dealing specifically with the training aspect and component, remains unchanged. When you are talking about the retraining of officers, we recognize we are making that mandatory for all police officers. I believe that the balance is making certain that our officers not only receive the best training at the outset, but on an ongoing basis throughout their careers.

In the 1990s, I believe there are ways that the training can be delivered to the officers. I do not believe it is absolutely necessary that every officer, through the retraining program, go to Aylmer or some other area. I believe we have the technology so that if there is any financial impact, it is very minimal indeed. On the other hand, what we do is make certain that our officers not only are best trained at the recruit level, but continually throughout.

Mr Philip: You see, the story I have is that you are going to pass on all the costs of Aylmer to the municipalities.

The Chair: In the spirit of all committee members being a little more magnanimous, I have an indication that Mr Brandt has a very, very tiny question. Mr Polsinelli, in view of the fact you are next, I am sure that you will—

Mr Polsinelli: I am going to have to question the judgment of the Chair. I wanted one quick supplementary. It would have taken me 30 seconds. The opposition said no. You have allowed them 15 minutes each. If the Chair is going to divide the time, the Chair divides the time properly.

The Chair: I asked you a question, Mr Polsinelli, whether you would permit Mr Brandt one small supplementary. Would you permit that?

Mr Polsinelli: I permit nothing; it is at the Chair's discretion.

The Chair: I am asking your permission because you are next on the list.

Mr Brandt: Thank you, Mr Chairman. When I raised the question about cost, the Solicitor General immediately shifted to a defence of employment equity, and that is not the question that I raised. He also indicated that the financial relationship between the province and municipalities and, by extension, police forces would remain unchanged. I do not know what he means by that, but once again I would like to ask him whether he has in fact established a budget for the changes he is proposing within Bill 107. I would like to know simply how much that is. When you superimpose a decision unilaterally, arbitrarily, otherwise, out of your office, which this bill gives you the right to do in certain situations, is it your intention to pay for any of that or to simply tell somebody else to do it?

If you are arguing that there are no serious—in fact, I might even use the word horrendous—cost implications in what you are proposing, then you are whistling past the graveyard because there are millions and millions of dollars involved in the changes you are proposing. It does not mean I am against the changes. I simply want to know who is going to pay. That is the

essence of my question. Where is the money going to come from and who is going to pay?

Hon Mr Offer: Again, as I responded earlier, the financial aspects of policing are unchanged under this legislation and in fact are not part of this legislation, as they are not part of any police act and never have been. We recognize it is important in dealing with policing issues that they be done at the local level. We have expanded the role of the local boards of commissioners of police to be responsive and receptive to the particular community. But the financial aspects of the bill, as in any police act, are not part of the act. This act deals with the framework, the direction and the initiatives for policing in the 1990s and the future.

Mr Brandt: All talk, no cash.

Mr Polsinelli: Would the Solicitor General please explain why 19 sections of the Police Services Act, Bill 107, which we have before us, were previously governed by regulation?

Hon Mr Offer: Basically, I think it is important to know that under the existing Police Act there were a number of regulations dealing with, for instance, police discipline and matters of this nature. What we have done under this legislation is move those areas which were previously governed by regulation into legislation. We believe in that area they are dealing with areas that provide a framework, a disciplinary procedure. They need not be part of regulation and they provide in that way a greater certainty for the police officers dealing with the discipline procedure. We just feel it is proper and right to put them in legislative form.

Mr D. W. Smith: I will try to keep my question short as well. In subsection 4(1) of the bill it says that, "Every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs." But then it goes on to say, in subsection 4(3) of that, with the exception of Muskoka; in subsection 4(4), with the exception of Ottawa-Carleton; and, in subsection 4(5), with the exception of Oxford county. We have been restructured down in Sarnia-Lambton. Maybe you cannot answer this question here today, but I guess I do not want to get some surprises down in the Sarnia-Lambton area. Are things going to remain the same in Sarnia-Lambton with each municipality if they have policing now? Is that going to remain the same or could we be in for some surprises in some of the municipalities of Sarnia-Lambton?

Hon Mr Offer: The response to your question is that the sections that are currently in the new Police Services Act are the same as those in the existing act. They are unchanged.

Mr D. W. Smith: Is the start of section 4 the same as well? It says "every municipality"; is that the same wording as well?

1710

Hon Mr Offer: That is the same wording as is now in the Police Act.

Mr D. W. Smith: I wanted to put that on the record because I would hate to get some more surprises. Sarnia-Lambton is going through enough change right at the moment and I would hate to be hit with some more through policing that may shock a few more residents or constituents down there.

If we could, maybe we should be under the same as the county of Oxford, which was restructured back in the early 1970s. I do not know whether you can answer that here today, but I wanted to put that on the record anyway.

Hon Mr Offer: If it is a matter of restructuring police departments, that is a matter which is decided by the local municipality and no one else, after it has discussed as to how best policing should be met in the community.

Mr D. W. Smith: So you could not override their decision by this bill.

Hon Mr Offer: No. That provision which you have brought out in the bill is basically the same provision as is now in the Police Act.

The Chair: Any further questions?

Mr D. W. Smith: No.

The Chair: If not then, I will thank the Solicitor General for his presentation and his comments and I will ask the next presenters to come forward.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

The Chair: Clare Lewis and Ed Singleton from the office of the public complaints commissioner. Clare Lewis, of course, was the chairman of the Race Relations and Policing Task Force.

Let's say, by way of organization, that we do expect a bell to call us in for a vote at around 5:45, so if we can arrange our presentation and leave at least a short amount of time for questions afterwards.

Mr Lewis: Thank you. I appear before you today, I understand, at your request as former chair of the Race Relations and Policing Task Force, as opposed to my day job of public complaints commissioner.

At a later time in your deliberations, I am sure you will be dealing with aspects of the public complaints system as it attaches to the rest of the province. I or my staff members are available to you at any time on request if there are questions we can be of assistance on in that regard. I understand the restrictions on time which you now face and perhaps it would be helpful if I made only a few brief comments and made myself available to your questions.

The task force took place a year ago in circumstances which were quite exigent at that time and we gave our report to the then Solicitor General on 11 April 1989. We had been formed in response to what was clearly a crisis in late 1988 with a mandate to deal with issues of race relations and policing and certain specific instructions as to what areas should be covered. We treated those instructions, I think, very seriously and felt that it was not a process that we could undertake among ourselves, that is, the six members of the task force simply in consultation with ourselves and by going to the literature.

Accordingly, we decided, and I think it was a pivotal decision, in our deliberations to go to the public. We advertised that we were available, that we wished to go around the province and be available and that we would receive representations. Indeed, we did receive 118 oral presentations from citizens, community groups, other groups such as the Canadian Bar Association, native organizations, police forces, police commissions and the occasional police officer. We received, I believe, 127 written briefs, a few of which overlapped the oral presentations. We also prepared a questionnaire of some detail for 117—I think there were 121 forces in the province at that time—and received an outstanding response of 99 returned.

Further, we did an extensive literature search, and the report, I believe, has been made available to you. I should say that at the request of the clerk of your committee. I provided for

you and I trust you have an executive summary of the task force report and a summary of the recommendations. It really is the recommendations which might be of more use for you in getting an overview and having the explicit recommendations at your fingertips. I should say that the executive summary was not prepared prior to the presentation of the report. Time simply was too much a factor; we were not able to do the executive summary. We presented the report and subsequently drafted an executive summary which was approved by the members of the task force. I think it may be of some value to you.

I have spent 25 years in the justice system in many different roles. I have been a defence counsel for a considerable period of time, I was a crown prosecutor for quite some time, I was a judge of the provincial court (criminal division) for over six years and I have been the public complaints commissioner for Toronto for almost five years. I must say that the experience of the task force was probably the most compelling of any service I have had to perform in my 25 years as a lawyer, judge, whatever. I hope I do not fall into platitudes here, but it was a period of extreme emotion. It was a cauldron in which I think the members of the task force were welded to some degree. There was an intensity of concern that perhaps we had not perceived when we were appointed by the Solicitor General and when we undertook the task. I do not think we would have recognized that had we not chosen to go to the public.

The public presentations were striking in many respects. They were, with a few—but very few—exceptions, very supportive of the ideal of effective policing in our democratic society. Almost all persons who came before us were terribly desirous of being part of a community which was wholly supportive of its police. Having said that, so many of the people who came before us expressed their concern that their interests were not perceived by the police, that they were seen differently from other groups by the police and that, accordingly, they were policed differently.

I think that while that was expressed at that time, and we certainly said so in the task force report quite explicitly, we have seen in the past few days in this city, through comments of public officials, that those concerns that they were policed differently may indeed be correct, because we have heard, just in the last few days, that blacks are indeed seen as different by police, and that means that they are policed differently. Those perceptions are extremely concerning and, I might say without any hesitation, very debilitating to visible minority communities. They are in danger, as expressed to us, and I think it is showing further today, of becoming marginalized, isolated, cut from the herd of the rest of us, if you will, to a degree that renders them very vulnerable in our society.

The police came before us, as I mentioned, and police commissions, and were universally anxious in their statements to have us understand that they are committed to public service, and I think that was understood. What was never said before us by police or police commissions was that there was, in fact, a problem in policing and minority relations. There were statements made that they were managing issues, that they were aware of diversity and they were responding to it and would be responding further in the future. But there has not to this point been an explicit recognition, I respectfully suggest, that there really is a problem in policing; that is, a recognition by police themselves that there is a problem which they are prepared to confront and then deal with directly.

The task force was very aware in its travels and approach that its function was quite difficult for the police service of Ontario. We knew that it was threatening just by its mandate, its

dynamic, if you will, especially once it became a public dynamic. We were very concerned about that because we wanted to balance the needs of security of the public, police officers and groups within the community so that they would feel that they were receiving police service in a manner that was equal to all other groups in the community—no more, no less and not differentiated on the basis of race, creed, colour.

1720

We approached our task in recognition of the very high calibre of police service in this province and I have no hesitation in saying that. Internationally, I think our police service is highly regarded, and it ought to be. That does not mean it is without blemish or difficulties. We have a society which you, as legislators, are well aware is changing demographically quickly, and the policing institution has not been able to change radically and quickly in the face of that. It has created difficulties.

We felt that a terribly urgent task at that time was put upon us and faced government. I feel that task is no less urgent today. We were not the first such task force or the first to make a report. There were those who went before us, but to a very great degree, those task forces and reports were not acted upon in any appreciable way. The impression that was given to us by persons who came before us from visible minority communities was that over the past decade they have been told by police: "Yes, we understand your concerns. Yes, we know that you feel that you are policed differently." But these people told us that in their view they were not met with a recognition that the problems were real. I fear that is still the case, and until these issues are addressed in a very direct way, the problems will continue and we will all be the poorer.

That is all I have to say, and I would be happy to receive any questions.

The Chair: Thank you, Mr Lewis. Did Mr Singleton want to add anything at this point?

Mr Singleton: No, sir.

The Chair: Good. We have roughly 21 or 22 minutes, which makes about seven minutes per caucus. At this point we have Mr Philip indicating his desire for the floor for the New Democratic Party. For the Liberals we have Mr Smith, Mr Cooke and Mr Kanter, and Mrs Marland for the Conservatives. First, Mr Philip, would you proceed? You have roughly seven minutes.

Mr Philip: Thank you, Mr Lewis and Mr Singleton. I appreciate your appearance here because of your vast experience and also because you have always been co-operative. Any time that I have come to you with concerns, you have tried your best, albeit limited by the legislation that you are forced to work under.

My question to you is this: The first recommendation of your task force was that by September 1989 the government of Ontario, through the Solicitor General, create an agency by statute with appropriate staff and a board of commissioners to be known as the Ontario race relations and policing review board.

Mr Lewis: Yes, sir.

Mr Philip: Has that been done?

Mr Lewis: No, sir.

Mr Philip: Do you know why it was not done or do you have any feeling as to why the government may not have done that?

Mr Lewis: My understanding is that the recommendation has not been explicitly rejected, but it certainly has not been acted upon. The government has, as I understand it, taken the position that the Solicitor General himself is responsible to the House and to the public for the success of the implementation of the recommendations and that he wishes to retain that responsibility and not pass it over to another organization, a bureaucratic organization.

I understand that there has been established within the Ministry of the Solicitor General a race relations and policing unit, which is headed by Dan McIntyre, formerly of the race relations directorate, and that unit is charged with monitoring the implementation of the accepted recommendations of the task force. I believe that is a time-limited function, a couple of years, but it is a—I do not think it is a replacement for what we recommended, but it is something used by the government in order to effect the implementation of the recommendations.

Mr Philip: I wonder if I can ask you about your recommendation 6. I do not want to read it out because it is fairly long, but basically you set out a recommendation with a timetable, a very specific timetable that certain things happen, all the way up to five years. Do you see this bill as implementing that recommendation?

Mr Lewis: Not the timetable. I think that what has occurred is that—we set out a timetable because we believed there had to be a time limit, that open-ending things just does not work, and it was our explicit statement that voluntary employment equity, for instance, had not succeeded.

Mr Philip: Is it fair to say that this bill has voluntary employment equity?

Mr Lewis: No. I do not think it does. I think it is mandatory. It is not the same sanction system.

Mr Philip: But if it is not specific, how is it mandatory?

Mr Lewis: It is specific in the sense that it requires that each force prepare and submit to the Solicitor General employment equity plans for approval. Once approved, as I understand the bill, the force will be held up to meet the approved plan. Failure to do so may then result in a matter being put to the new Ontario police services commission, the OPC today, for hearing as to whether there has been dereliction and possible sanction. The sanctions are not the same as the ones we recommended, but there is a sanction process.

Mr Philip: Is it not fair to say that, as a result of your examining the American experience, unless specific timetables are put in, in fact implementation usually does not take place? Is that not a fair thing to say?

Mr Lewis: We believed you needed timetables, yes. We set goals and timetables where required.

Mr Philip: And there is no timetable in this legislation.

Mr Lewis: They have not accepted 1996, as I understand it, or they have not committed themselves to 1996 as the time for parity on all forces with their own communities. I am not absolutely sure that they are rejecting timetables as a government, but they do not have our timetables. They do not have the very close framework that you point out.

Mr Philip: Is it fair to say that many of the recommendations that you have made in your 57 recommendations are dealt with under section 133 of this bill; namely, that they will all be done, or most of them will be done, if at all, under regulation instead of under the legislation?

Mr Lewis: Certainly some will come under regulation authority; I do not think there is any doubt. Employment equity, for instance, is in the act in the sense that there is reference to it both in terms of the Ontario police services commission and the requirement of local police boards to buy into it, but the regulations as well, I believe, will be much more specific and will flesh it out. So yes, I agree, there is regulation authority there.

Mr Philip: I guess I have the problem that when we have an important task force like yours, with very specific recommendations, and then a bill comes forward and instead of dealing with those recommendations they deal with them for the most part under a regulatory section, in other words, behind closed doors, they are not really seeking public input, they are planning on dealing with it in the Solicitor General's office. As someone who has been involved in this kind of process for a long time, do you share my anxieties?

Mr Lewis: I understand your anxieties. I think that many of our recommendations in fact are seen inside the act itself. I do not think there is any doubt that they are in the statute. For instance, we made recommendations about public complaints; we made recommendations about police commissions. They are in the act itself to some considerable degree.

Do I have concern that many of them are left to the regulation process? All I can say is the Solicitor General in the House made very specific statements as to commitments to certain of these recommendations and said that they would be enacted. I think it is up to the House to see that he does so, either through this statute or through the regulations.

1730

Mr Philip: They promised regulations to lower auto insurance also.

The Chair: We have roughly seven minutes for Messrs Smith, Cooke and Kanter. Mr Smith, you are first.

Mr D. W. Smith: I will be as brief as I can. You have mentioned the first nations people in your brief here, and we have two reserves in my riding, Kettle Point and Walpole Island, and of course the Sarnia one is in Mr Brandt's riding. Do you feel that what the legislation mentioned under first nations constables has gone far enough? Has it done what you suggested, in your opinion?

Mr Lewis: No. You must recognize that we had no mandate for first nations. We added it because we got to Thunder Bay and found that almost all presenters were first nations peoples and we simply could not ignore the extraordinary statements made by them. They were exceedingly important.

What we did was recommend a tripartite task force to set up models for native justice systems. That has not, to my knowledge, been done, although I know that within government there are some workings towards native justice models. We did not address the issue of first nations constables in the report as such. We did not deal with that.

Mr D. W. Smith: From all of the discussion that you did hear up in Thunder Bay then, do you feel that by making them first nations constables it has achieved some of the things that they wished?

Mr Lewis: Certainly we were asked by people about first nations constables and they felt that they were important, some people did, yes. It was not universal by any means.

I must say we were very concerned in that area, because we did not have the expertise, we did not have the people on the

task force itself who had the knowledge that was necessary. We did not have the mandate.

Our basic position was, first nations people needed the benefit of every other recommendation we were going to make anyway, because although first nations people are very different from visible minority communities, there is no question of that, and they were at pains to point out to us they were not visible minorities, although that is so, they presented their grievances, their concerns, in precisely the same terms as visible minority communities did. Essentially, I guess what they were saying was, "From the point of view of a white officer, we're a visible minority because it is defined by colour, so we're treated as though we were a visible minority." So our position was that we thought the whole justice issue needed to be looked at and that they would benefit from all the rest of the recommendations as would anybody else.

Mr D. W. Smith: I would like to ask more, but I will give to my colleagues.

Mr D. R. Cooke: I had the pleasure of appearing in front of Your Honour on a couple of occasions for convictions and sentences. I do not think I ever had an acquittal.

Mr Lewis: How did you do?

Mr D. R. Cooke: For that reason, I—

Mr Brandt: You are here. You must have got out.

Mr D. R. Cooke: While I have no complaint about your judging, I too certainly enjoyed your task force report much more.

You completed this report in April of last year, I believe.

Mr Lewis: Yes.

Mr D. R. Cooke: It has been suggested that of the 57 recommendations, 56 have been dealt with by the ministry. The other one was referred to by Mr Philip and there is some argument in that regard. I just wondered if you could comment on that suggestion and indicate to us to what extent you agree with that, especially in view of your comment that unfortunately, very unfortunately, there have been some public figures recently making statements which tend to marginalize certain people, and whether or not this government, in bringing in Bill 107 and doing such a thorough addressing of your report, is in fact perhaps the exception to the suggestion that sometimes these reports go unheeded.

Mr Lewis: I do not think there is any doubt that the members of the task force were—I do not want to make this sound like public relations, I really do not, but they were gratified by the generally positive response of the government. We were well aware of the failure of other task force reports to gain any commitment whatsoever of any value.

So yes, I would have to say that this government has come before you with most of what we asked for within it. Timetables are not necessarily what we asked. We said they should cancel the existing race relations training. We thought it was that bad. They did not go along with that. They have not agreed with absolutely everything, but the general flow is clearly in support of the proposals. I would have to say that is positive and I am hopeful.

Mr D. R. Cooke: Obviously, though, the government needed some time to get a response to your report. Would that eight months or so have been considered when you were making up this report?

Mr Lewis: Perhaps we were naïve. There was a change of ministers. There was an exhaustive consultation process that I know has gone on subsequently that perhaps I was not aware in advance would be as exhaustive. But I think our timetables were still important, because we wanted to make clear the urgency that we saw in the matter. If I were doing it again, I would still put pretty short timetables on and let government deal with that as best it can, because I think the matter is urgent. But I know the legislative process is a complex one, as we have seen here today.

Mr D. R. Cooke: Speaking of what we have seen here today, it has been suggested by Mr Polsinelli that there are 19 sections in this act which were dealt with historically in regulations that are now being brought into legislation, so that the movement of this government obviously is to have more things dealt with by legislation than were dealt with by regulation, such as the discipline procedure. In view of the exhibits that we have had of some legislators who obviously have not paid any attention to this legislation or have not read it before commenting on it, do you have any qualms about that?

Mr Lewis: About the 19 being—

Mr D. R. Cooke: Yes. Perhaps it should be dealt with by regulation, because bureaucrats at least read it.

Mr Lewis: No. I will give you an example. What has happened is that the existing statute which I administer, the Metropolitan Toronto Police Force Complaints Act, will be repealed by this and has been actually imported right into the Police Services Act, something that did not exist in the older act. I suppose that required that the internal system come into the act rather more formally than it had before, because it would have resulted in regulations for the internal and statute for the other. I have no complaint with that.

Mr Kanter: I have really just one question. Mr Lewis referred to previous task forces on police and race relations not being implemented. Would I take it that the adoption of Bill 107 would basically implement the thrust of your report?

Mr Lewis: Yes. I think that there have been other initiatives supplementary to the bill that in total, yes, are a very large implementation of this report.

Mr Kanter: Perhaps it would be more accurate and complete to say that the adoption of Bill 107, together with other measures the government has taken, would implement the thrust, the direction, of your report. Would that be a correct statement?

Mr Lewis: I would have to say that is probably true, yes. Yes, I think it is true.

The Chair: Approximately seven minutes, Mrs Marland.

Mrs Marland: I am wondering, since you were obviously looking at the entire province, and recognizing that a city of more than three million people, as Metropolitan Toronto is, and recognizing from the input that you had from all the different community groups within many varied municipalities, how do you feel that introducing a complaints process province-wide, which really is identifying possibly very different problems around the province from those experienced in Metropolitan Toronto—do you feel that there is such a generalized need that that complaints process has to be uniform across the province?

Mr Lewis: My reply would be prefaced by saying I have an obvious conflict of interest. I am the complaints commissioner. But aside from that, yes, I think there is a value in its

being mandatory, being universal, and it is, with respect, a benefit not just to the citizens but also to the officers.

I have had the opportunity of hearing your concerns in the House from time to time on the dispute, for instance, that was going on in Metropolitan Toronto between my office and the police association and your concern about then Bill 4, if you recall, the voluntary opt-in bill.

1740

The statute which I administer affords police officers more rights than any other professional I am aware of in discipline proceedings. They have just an extraordinary number of protections that are not provided in existing internal systems. I think the statistics on how many get found guilty under this system bear witness to that, but what it does do is provide an open window to the process that has not really existed in the past and still does not exist to a large degree in parts of this province.

This bill, or the system that I administer, which is much the same, requires a paper trail so that everybody is accountable along the line for the proper resolution of it. It is to keep everybody honest.

Different communities are not all that different in some respects. I agree that there are local conditions which have to be taken into account, but in going around the province with this task force we found many of the concerns in Windsor, Ottawa or Thunder Bay that we were hearing in Toronto. In each of those cities we heard demands—which were filed, by the way, with the committee of a previous time for Bill 4—that there be a mandatory system province-wide.

So I do not think it is simply the imposition, but I must say that it would have to be and must be handled with a very real awareness of local needs. The emphasis of this process in this bill is to permit local resolution of the complaints but provide an appeal process in the event that is not able to occur. In the event that this bill should be successful and that system go into effect, our office has planned to have regional offices hired locally so that those local concerns would be well regarded.

Does that help you at all?

Mrs Marland: Yes, it does. Can I just share something with you? It is so frustrating when we have so little time. There was something that the Solicitor General said in his speech or his brief this afternoon that really concerns me, and it may be the wording, but I just want to ask you, as chairman of the task force, how you would react to this. It says,

“Bill 107 proposes a special investigations unit within the Ministry of the Solicitor General that will investigate all incidents involving serious injury or death that may have resulted from criminal offences committed by police officers.”

That whole sentence deals with investigations, so there have been no conclusions at that point, I would suggest.

Mr Lewis: That is right.

Mrs Marland: I am very much bothered by the investigations “involving serious injury or death that may have resulted from criminal offences committed by police officers,” and I am bothered by the fact that this says those are criminal offences.

Mr Lewis: Is your concern that it appears to prejudice?

Mrs Marland: It is prejudged, and also, if this is what is going out to the public, I think it creates a very bad picture, because what it is saying is that these police officers, who may or may not have used very bad judgement in the execution of their duties, at the point that they are being investigated, they

are still only executing their responsibilities to protect us. That bothers me very much.

Mr Lewis: If I may presume, it is a badly phrased sentence. I know what it means, but I stumbled on it the same way when I read it.

I believe what it is attempting to say is that there will be investigations by this unit of events of death or serious bodily harm in circumstances in which it may be that a criminal offence has occurred. That is the way the sentence ought to have been. This investigative group is going to be given the power of peace officers. They will not be police officers, but they will be peace officers. They will have the right, if it is deemed proper, to lay criminal charges.

Mrs Marland: Of course.

Mr Lewis: But it is not presumed, although that sentence, I agree, perhaps gives that impression. I am sure there is no intent that every time there is a death that is necessarily a criminal event by an officer. Does that help?

Mrs Marland: Yes. Obviously I think if you choked a little over it, and that was not quite your word, you had the same reaction I did.

Just one final question. You said that there were groups before the task force who said that the police treat black people differently from others in policing. Did the task force hear evidence which made the task force concur with that theory? I mean, obviously if you heard from different groups, you would hear from different groups from both sides of the issue. Is the position of the task force that there is very strong evidence to support that theory?

Mr Lewis: Yes, I think so. I want to be careful with what I say. I am not here to tell you that there is gross racism—I am not suggesting that—but I think there is clearly evidence that we have to accept as being sufficient to cause concern that many police forces are dealing with visible minority communities differently from the manner in which they deal with white communities.

I say to you that that has been put proof to by comments over this weekend in this city by police commissioners stating that because, in their view, blacks are committing more crimes, the police are dealing with them differently, are treating them differently and are entitled to treat them differently. I take great exception to those remarks, but they have been made, they are clear, they are on the table.

Maybe it is time they were on the table, because what we were hearing before the task force, we had been having police tell us for a decade: "Everything is going to be fine. We understand there are issues, but we are looking after them." But these communities said to us, "But they are not looking after them because they will not concede there is a real problem and the real problem is the way in which they perceive us."

All of a sudden, as of this weekend, we have very high authority, at least in the city of Toronto, from police commissioners that that is right, they are perceived differently and are treated differently; and at least if that is now conceded, while I may take tremendous exception to it—and I do, I think it has horrendous consequences, marginalizing, isolating of the black community—at least now that it is out maybe we can deal with that.

You know, two weeks ago, when this young man, Marlon Neal, was shot, I was asked by the press what I thought and so on. I said something—the first time I had heard it said—"You know, I'm beginning to become concerned that perhaps what is

happening is that police officers"—I would not deal with the term "racism," I said I did not think it was helpful—"what I think may be happening is that police officers are approaching black youth with a perception that gives fear to them that is causing them to act in ways that objectively are not justified perhaps."

Mrs Marland: Is it the way they used to approach youth in the 1960s with long hair?

The Chair: Treat that as a short question and a short response, because we are over our time.

Mr Lewis: Yes, maybe.

Mrs Marland: Is the problem not based around the fact that nobody knows what the numbers are about who is black, who is white, who has long hair, who wears leather jackets? I mean, are those figures available? And is part of the problem the fact that somebody can make a statement that more black people commit crime and therefore there has to be more involvement with police with black people? It may be totally false, but the numbers are not available to the public, are they?

Mr Lewis: Even if they were, I would have to question how they were collected.

Mrs Marland: How they were collected?

Mr Lewis: Yes, they are highly, highly subjective figures and they are very, very dangerous to play with. I can only say to you that in recent months we have had a few black children, unarmed black children, shot by police forces in circumstances which were at least sufficiently objectively inappropriate that criminal charges have been laid. That to me spells trouble. That to me means that we ought to be looking at why it is happening. Why are these young people being endangered?

The black community today, and I mean at large, is starting to express serious concern in very responsible ways. I can tell you that people like Dr Dan Hill, who will be before you will, I am sure, express concern. Romain Pitt, my classmate, who addressed the Premier on behalf of the Black Business and Professional Association recently, is a man of great wisdom and thought. He says, "We are afraid, as a community, and the fear is twofold." It is fear of danger by police, but it is also fear that they are being hived off, that they are being isolated from the rest of us and that they will never overcome that kind of segregation. I think that is a fear we have to address very seriously today. We have to look at it.

I do not want to blame people. I do not want to say, "You are a racist." People can be wrong and not be racist, okay? But it has got to be dealt with and I think we have to start looking very seriously. The use of deadly force is a major matter and it has to be constrained.

The Chair: I am noticing the monitor up there. I think the House is being called to vote very soon. I know that Mr Philip wanted a very short supplementary or a very short question, but it looks as though we are out of time.

Mr Philip: Just one question then. Recommendation 10 of your report was very specific with regard to the Sikh community; namely, you said that you wanted an amendment to the Police Act to guarantee the right of a police officer in any police force in Ontario to wear the five Ks. Is it true that this bill in fact is silent on that issue?

Mr Lewis: I think so, but I understood the minister had made a commitment to allowing it, I guess by regulation. That is my answer.

The Chair: I do want to thank Mr Lewis and Mr Singleton for coming and sharing their advice and comments with us and answering our questions. I am sure it will be very helpful to the committee. On behalf of the members of the committee, I want to thank you for coming before us.

I want to remind committee members to take your notes and papers with you, because we may be meeting in room 151 tomorrow.

The committee adjourned at 1751.

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Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Tuesday 29 May 1990

Standing committee on administration of justice

Police Services Act, 1989

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le mardi 29 mai 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers



Chair: Ed Philip
Clerk: Tannis Manikel

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 29 May 1990

The committee met at 1537 in room 151.

POLICE SERVICES ACT, 1989 (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services.

The Chair: The standing committee on administration of justice is now in session. The committee is in the second day of hearings into consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and to consider the report of the task force on race relations and policing.

REGIONAL CHAIRMEN OF ONTARIO

The Chair: Our first presenter today will be Peter Pomeroy, representing the Regional Chairmen of Ontario. Mr Pomeroy is chairman, regional municipality of Halton. I would ask Mr Pomeroy to please come forward. We generally have allocated 30 minutes per presenter and, if you care to you, you can leave some of that 30 minutes for questions. Please proceed.

Mr Pomeroy: Thank you, Mr Chairman. My presentation probably will take 10 to 15 minutes and I have a number of briefs prepared for distribution. I do not know whether you want me to pass them out now.

I would introduce as well as part of my delegation, although they will not be speaking, Wilbur Dick, the chairman of Niagara region, and Ann Sloat, who is the regional councillor in Hamilton-Wentworth. They are in the second row along with me.

I would like to thank you for the opportunity of appearing before you today with respect to Bill 107 and the proposed amendments to policing legislation in Ontario. I am here, obviously, as the chairman of a group made up of all of the regional chairpeople in Ontario and we are here to express our concerns regarding municipal, and more specifically regional, policing in the province. As I am sure you realize, the regional municipalities account for something in excess of 75% of the province's population. With that in mind, I hope you will seriously consider the issues that we would like to put forward before you today.

At the outset, I would like to comment on the acceleration of the consideration of Bill 107 by your committee and by the Legislature. I understand and appreciate the reasons for that and will attempt to focus my remarks on the issues of the most serious concern to the regional municipalities. However, I would also urge you to consider carefully the recommendations coming from the Association of Municipalities of Ontario, or AMO, which address the overall aspects of the policing legislation in considerably more depth. Certainly we are all part of that municipal network.

I am not here to talk to you about policing methodology and any controversy that might surround that. Rather, I am here to describe for you our very profound concerns about the accountability of police commissions in Ontario, the role of the

regional councils and, most particularly, resource allocation and the relative costs of policing. I choose the word "relative" carefully because I think we all believe policing is a very important issue that certainly deserves priority attention. However, regional councils in considering their budgets, and therefore the taxes they demand from their citizens, are conscious of a whole range of competing program needs within our communities.

In virtually every other aspect of our regional programming, the regional council has the opportunity and indeed the right to consider priorities and to weigh the competing demands, to hear the viewpoints of our communities as a whole and to make informed decisions about where the limited funds should go. This is not true in the case of policing. In most of our regions the cost of policing, net to the local taxpayer, is half or more than half of the whole regional tax-supported budget.

Under existing legislation we have no right to make decisions about the level of resources given to the police commissions and the forces. Instead, we are directed by the legislation to consider and approve the budget as put forward by the commission and, if we fail to do so, then the matter is sent out to the Ontario Police Commission for a binding decision.

We accept and applaud the efforts of the government to re-examine policies and standards with respect to policing and do not argue with the right of the Legislature or the Solicitor General to determine those standards. Our concerns, though, go to the issue of how the standards are interpreted and implemented and the extent to which local commissions and forces may decide to exceed those standards with obvious cost implications. In the absence of the right of regional councils to determine resource allocations among competing programs, our discretion and our ability to plan for balanced programming, soft services versus hard services and preventive services versus reactive services, are lost.

Let me give you an example of what happened last year in my own region of Halton, the one I am most familiar with. Over the past number of years we have, to the credit of both the commission and the council, worked hard at establishing an atmosphere where we can plan together for major resource requirements. However, in late 1989, the association representing most of the officers in the Halton regional police force appealed to the Ontario Police Commission respecting staffing strength.

The Ontario Police Commission, through the policing services division of the Ministry of the Solicitor General, conducted a review of the Halton regional police force and issued an extremely complimentary report about the successes of our force, touching particularly on the effectiveness of the force's proactive policing philosophy. Yet despite those comments, the report concluded with a recommendation, based on some statistics that quite frankly my council has some difficulty understanding, that 49 additional officers were required. This was just prior to our budget procedures.

Mr Chairman, let me put you in the position of both the commission and the council in Halton. Before we even began our budget process for 1990 the OPC, the body to whom an ultimate arbitration decision would come on our budget, issued a pre-emptive opinion on that budget before the commission had even prepared and submitted its requirements to council, let

alone council's considerations of those requirements. Frankly, that kind of intervention has not been helpful to Halton's efforts by both council and the police commission to plan together.

There are other examples of the kinds of problems caused by the inability to control finance and administration matters. Let me cite two or three very briefly. Probably the best example is the ongoing dispute now before the courts respecting the inclusion or exclusion of police forces in the municipal establishment for pay equity purposes. So far the decision holds that regional police forces are a part of the regional establishment. The impact of this is to bring the decision-making of police commissions with respect to compensation matters closer than ever before to regional decision-making.

Even though we have had to pay in the past for compensation decisions made by the commissions, we now face the prospect, or indeed the reality, of being whipsawed between the commissions and the other regional staff. Of course there are obvious consequences. That is made even more potentially serious by the access of the police associations to binding arbitration. Joint planning and ultimate control over resource allocation by regional councils should significantly reduce the impact of that whipsaw potential.

Second, simple administrative efficiency and streamlining are hindered by council's lack of control. Mundane administrative matters like computer and telecommunications systems, if not done in a planned, co-ordinated and integrated kind of fashion, can result in costly duplication of effort and decisions that are not in the best interests of the regions overall.

Please be clear that I am not arguing for police commissions to be an integral part of regional organizations like every other department. I am simply saying that regional council needs some or at least more control over expenditures to ensure that those expenditures are compatible with regional councils' priorities and systems and all the other programs that we administer.

How do we resolve all of this? I have a brief that I have left with your clerk today which addresses the issues in somewhat more detail. That brief addresses the recommendations I wish to put before you in addition to AMO's recommendations, as I said before.

Again, our fundamental concern is with a program which accounts for the largest single part of our financial accountability and over which we have no control of the level of resources, either actual or relative. Our recommendations then are aimed very specifically at the composition and makeup of the proposed police services boards and the powers and roles proposed for those boards under Bill 107.

Therefore, our brief recommends:

First, a majority of the members of police services boards should be appointed by their respective regional councils. I do not think that is news to anyone who is sitting here. If municipalities are to have accountability for the cost of policing, then it is our view that they ought to have the responsibility and the authority for these resources. As I said before, this is not a new issue, but we wanted to reiterate in the strongest possible terms our long-standing position on that matter.

Second, the quorum of the police services board must require that a member of council be present. It is difficult to accept the fact that under the proposed bill there is not a majority of the regional councillors on the board, and it removes the requirement for even one of those members of council, the major funding body, to be present to constitute a quorum. We think that position is unacceptable to the regional chairman.

Third, the chair of the police services board should be chosen from the members of the board by the board. We believe that a democratic process and effective leadership in virtually every situation, or certainly in many, suggests that the person who can most effectively lead a group is one who is chosen by that group and not by a third party.

Fourth, we believe Bill 107 must be amended to provide for review of employment equity plans by the regional council and that the council should be permitted to make representations to the Solicitor General respecting those plans prior to his approval of them. I described that impact before. This is a specific recommendation which goes to the central issue of resource allocation. We believe that there will be cost implications of these plans, but as well implications on the balance of the regional workforce, as I have already described today. Thus, we strongly urge that regional council have a role in the reviewing of these plans and certainly the opportunity to comment to the Solicitor General prior to their being adopted.

Fifth, we recommend that Bill 107 be amended to require the police services boards to submit their budgets to regional councils for approval, in the cases of regions, and that the budget approval decision be final. In other words, we are recommending that the right of the Ontario Police Commission, now called the Ontario Civilian Commission on Police Services, to arbitrate budgetary matters be removed. This recommendation, we believe, is at the very heart of the regional submission, as it talks about their ability to be able to finance competing programs. Certainly, if no other recommendation is adopted, we urge the adoption of this one.

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Sixth and finally, we recommend that the Solicitor General amend the Police Act to recognize the need for liaison between regional councils and their police services boards and to provide for the reporting of the matters to each regional council. Certainly that is because closer relationships, better planning and improved communication, we believe, will lead to better policing in Ontario and better use of taxpayers' resources.

Mr Chairman, once again, I am grateful for this opportunity to appear before you. I certainly appreciate the difficulty of the task that you are facing, on the one hand, and the urgency for a number of these matters to be addressed quickly, on the other.

As I said before, I left the copies of our presentation with the clerk. That is the Regional Chairmen of Ontario's brief. I ask you to carefully consider it and I will attempt, along with my colleagues, to respond to any questions that you may have today.

The Chair: Thank you, Mr Pomeroy. We have about 15 minutes for questions, which leaves five minutes for caucus. I have Mr Kormos down first on behalf of the NDP.

Mr Kormos: Please let me know when I am a minute away, if you will, Mr Chairman. With respect to the matter of what constitutes a police commission, and indeed there has been persistent commentary about the fact that there be a government appointee on a local or regional police commission, it is not a matter of what you know but a matter of who you know. By and large, these persist in being political hacks who are appointed not for any special expertise but as a result of their familiarity with a cabinet minister or other political ins.

When you suggest that you would not insist that the local police services boards be entirely constituted of elected local people, why would you not go that far? Why would there be any need for a provincial appointee, especially in view of the

fact that there appears to be no responsibility or accountability by that provincial appointee to the Solicitor General?

Mr Pomeroy: It seems to me that that in itself may be a question that is a little politically charged, but I will attempt to answer it in the best way I can. I am not making light of the way it was presented, because I think it is a very valid question. It was one that we canvassed in our deliberations.

Our feeling simply was that, number one, the majority on the boards of commissioners of police would be better served from the regional municipal perspective, as far as we were concerned, if in fact there was a majority of municipal officials on it. It was not from the point of view of wanting to have control over police services as local elected people. We did not feel that was our decision to make; that was a provincial decision. But in matters of non-policing, particularly budget, it was extremely important that we be represented at least as a majority. We feel that, in the 1990s particularly, the cost of provision of all the service is going to be extremely difficult, particularly with the downloading of costs for police services to municipalities.

If we did not have a majority at the table then, quite frankly, our whole financial structure, because of the implications of police services, is in jeopardy. You have seen, as I have seen over the last 12 or 13 years that I have been involved, that there is in fact a change in the responsibility for resources for police. It has shifted back to municipalities and we are very concerned about it. That is really part and parcel of this brief. We feel sincerely that a majority of municipal officials on that board would be adequate.

I guess I could go one step further in that political appointments by the province represent the civilian part of this province, non-elected, and if those services are provided fairly and equitably, then we would have no argument with that. But we are not in a position to be able to adjudicate how they are chosen.

Mr Kormos: In terms of the fact that municipalities have limited pools from which to obtain funds, and most municipal ratepayers are of the opinion that the pool has been exhausted, can you, from your experience, state that policing has been affected as of, let's say, 1989-90 in terms of the budgetary capacity of a municipality? That is to say, has the downloading that you have spoken of affected policing?

Mr Pomeroy: I would say not to this point in time but that—I am sorry, Ken Seiling has just arrived. He was speaking in my ear and I did not know who it was, just from the voice. Ken is very helpful.

I would not say it has had a dramatic effect at this point in time. It has the potential. In Halton, for instance, we are up to about 55% of our tax-supported budget now going to policing. That is up from probably about 40% when I first started, so there is a definite trend there.

Of course recently we have had court security given to us without much consultation and that has had a further dramatic effect, about \$250,000 in Halton's case, more in others, depending on the court security requirements. I think it is a provincial responsibility to choose who pays. It is a question of what role the municipality really has in all of this request for funding.

We really have no right to veto anything. All we have the right to do is pass the cost on to the local taxpayers through a very unilateral process, and we think if we do not speak now and we do not speak again—because this is not a new issue, it has been ongoing ever since I have been involved—that we have missed a perfect opportunity. I hope that consideration is seriously canvassed, because it is important.

Mr Kanter: I want to thank you for your presentation. Perhaps the fact that you varied somewhat from the written brief made it a little more intellectually challenging for members than just reading the brief as you went along.

I have a lot of concern about financial arrangements, the way that the police commission sets the budget and the regional municipality has to pass it. There is an arbitration procedure by the Ontario Police Commission—I am using the old terms. Maybe you can help me in terms of where these arrangements are contained. I do not know that they are necessarily contained in the old act or the new act. Are they contained perhaps in other legislation?

Mr Pomeroy: The right to appeal the budgetary process is the same, I understand, under the new bill as it was under the old, in that the body that arbitrates budgetary decisions is in fact one branch of the Ontario Police Commission. That is the same under the new as it is under the old.

The example that I used was one—and maybe it is fortunate because it really is a perfect example. Before we went to budget in Halton and before the commission had determined its budget, the Ontario Police Commission effectively said that Halton needed 49 new officers. We went through a budgetary process where the police commission chose to hire another 20 or more officers. I have forgotten the exact number now. The question then was crystallized in that if we had refused the police budget at that point in time, it would have been referred to the Ontario Police Commission, which previously had made a determination that we needed not 20 or more officers but almost 50. Our fear was that if we referred it, which there was some support to do, it may have come back supporting 50 officers instead of the 23 our budget recommended. That was a possibility.

You can see the dilemma it puts municipalities in having this kind of budgetary approval process in place.

Mr Kanter: Bill 107 continues an existing procedure that has perhaps caused you some difficulties in the past. You might anticipate similar difficulties. It does not change things in any significant fashion.

Mr Pomeroy: Let me put it this way: It does not change them in the context of how the act is drafted, and this is an anomaly with this government. It goes back into the 1970s during my term of experience. It exacerbates the problem because every year, as the responsibility for costs is shifted to municipalities, it then makes the problem even bigger than it was before. In that respect, as far as verbiage is concerned, it does not change anything.

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Mr Kanter: If I might just ask, with respect to other issues, and there are a number of them that the Solicitor General and others identified for the committee yesterday—a clear definition of the responsibility of police commissions, police chiefs, police officers, public complaints procedure, civilian review of police actions—I take it, then, by the emphasis of your brief on the financial arrangements, that you do not have any serious difficulties with the areas where the bill is suggesting changes. Would that be reasonable?

Mr Pomeroy: I think that is reasonable.

Mr Kanter: Would you see some areas which, rather than neutral, are positive from your point of view in terms of policing?

Mr Pomeroy: I hope that I am not misrepresenting the real facts. The quality of policing in Ontario is second to none in the

world, as far as I am concerned and I do not think this bill really puts the quality of policing in jeopardy, but it is an opportunity for municipalities to make presentations on where it affects them the most.

I did not come really to speak to policing. I think it is certainly adequate, probably more than adequate in most areas, but if the municipalities do not have a proper veto in the budgetary process—I think that is our most significant point—then clearly you have done us a disservice by not carefully canvassing that.

We are stretched pretty thin out there now. There are a number of competing issues, not the least of which, I am sure most of you understand, are the environmental services that we are being asked to provide that are seriously straining our ability to be able to pay for those services. With the costs of policing going up, it competes directly with all of those other programs, and we have no right to veto it. Indirectly, you are affecting all of the other programs you are asking us to provide for the people of Halton by not allowing us any opportunity to effectively object to the cost of policing.

Mr Kanter: As a former municipal councillor, I certainly understand your concern about the financial impacts of things and I am sure you can appreciate the concern of members of the Legislature that there be some province-wide standards in the Police Act, Mr Pomeroy.

The Chair: Mr Runciman, do you have any questions?

Mr Runciman: Yes, a few quick ones. Mr Pomeroy, I am curious about the question you had before you in respect to a request from the police force in the region for 49 additional officers and, through the budgetary process, you determined that 20 would be adequate. How do you relate that in respect to crime statistics, if you will, for your region? I am wondering how you justify that kind of decision. Do you do it simply or solely on the basis of its budgetary implications? Do you take a look at what is happening in respect to increasing crime levels in your communities? How do you deal with that sort of question?

Mr Pomeroy: I might have been misunderstood or I did not present it correctly. The decision to bring forward 23 police officers was the decision of the Halton police commission itself. They made the determination on the validity of this, the statement that directed 49 officers would be appropriate.

Interestingly enough, and that is a very good question, in Halton region, because of the numbers of programs that we have implemented or the police commission and the police force have implemented proactively, these have in fact reduced the crime statistics in Halton significantly over the past six or seven years. They have been going down. The request for additional officers came from the police force itself, and the officers' association. I understand that everyone thinks they work too hard, but the statistics did not support the decision that was made by the Ontario Police Commission. They recommended 49.

As a matter of fact, the information that they used to substantiate the decision for 49 officers, we believe, is in error. They did not use up-to-date and current statistics as they dealt with Halton or the rest of the province, so we are going to go further and we are going to further examine those statistics. It was a decision that was made in the first place by the OPC. Second, the police, the commission itself, supported the number 23 or whatever it was, and that is the number we approved.

Mr Runciman: In respect to the report by Clare Lewis and others, you have not touched on any possible concerns that you might have and how some of the recommendations, if implemented, might impact on your own force's ability to do the job as effectively as perhaps it has in the past. Does your organization or your council have any concerns in respect to some of the restrictions, perhaps, and requirements that might be placed upon cops on the beat in respect to recommendations made by Mr Lewis and embodied in the new act?

Mr Pomeroy: I would say that I am not aware of the effect of the implications of the proposed changes. It has not been an issue that has been discussed in our municipality at the council level; it may have been on the police commission. I am not a member of the police commission.

Mr Runciman: Do I have another minute?

The Chair: We have about 60 seconds, and that is pushing it.

Mr Runciman: I just wanted a quick comment, Mr Pomeroy, if you could, in respect to the employment equity request. I think it is quite a reasonable request you are making, the opportunity to appeal a recommendation. Perhaps you could provide us with some sorts of examples of things that you might see occurring that could create difficulties for you in respect of that particular concern.

Mr Pomeroy: I cannot give you a lot of detail on the issues, but there is one issue that presently is being heard. That is an issue in Haldimand-Norfolk where the Ontario Nurses' Association, maybe legitimately or not, is asking for equity with police officers. That may be a valid presentation, except that we did not feel, as regional chairmen, that for the purposes of pay equity police officers should have been adjudicated along with other regional employees, because clearly they have been kept separate in most other cases.

If they are considered for pay equity purposes to be part of the regional employment complement, then at least we should have the opportunity to present our case, where it affects each us, before the Solicitor General, because obviously he can make decisions that could cost us a lot of money and we have virtually no input. It brings it back to that same issue I raised before. I do not know whether it is fair or not to make the comparison; that is for somebody else to determine. I have no difficulty if they do, but I certainly would like to have a voice at the table, that is all.

The Chair: Thank you very much, Mr Pomeroy. Our time is up. I want to thank you on behalf of the members of the committee for presenting your brief and answering the questions from the members of the committee here today.

Our next group will be representatives from the Canadian Broadcasting Corp. I would ask Dan Henry, legal counsel for the CBC, to please come forward and to introduce the other members of his delegation. We have about 25 or 26 minutes at this point for the delegation.

CANADIAN BROADCASTING CORP

Mr Henry: I have for you a copy of the submission. My name is Dan Henry. I am a lawyer at CBC. Seated with me on my right is Slawko Klymkiw, who is the executive producer of CBLT news and current affairs programs such as CBC At Six and CBC At Eleven. On my far left is Steve Andrusiak, who is in the equivalent position to Slawko in Windsor. He is the executive producer of our Windsor news and current affairs on

television. Seated immediately to my left is Doug Kirkaldy, who is assignment editor at CBL radio in Toronto.

We have given you a written submission. It has two major thrusts. The first is that there ought to be an obligation on the police to disclose certain basic information about their activities. The second thrust is that proceedings that are open to the public, that are referred to in Bill 107 and the Police Act, ought to be open in reality to the public, which means that radio and television should be given access to those public proceedings.

If I can take you through this submission briefly, we submit that if there is one lesson to be learned from recent experience both in Eastern Europe and here at home, it is that while a society must rely on its police, it cannot give its police blind trust. For a police force to function well, its activities must be open to the bright light of public scrutiny.

Police, like all of us, want to be seen in their best light, but the police, unlike all of us, have society's sanction to use raw power. It is not, in our submission, in society's interest for the police to be able to use this power, as well as orchestrate our perception of how they use it.

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There is no middle ground on this issue. The public and the media must be given complete and timely access to information that police have about what is happening in the community. Responsibility for the dissemination of information to the community at large must rest with people other than the police. The debate about who should be shielded from public view should focus on the media and not the police.

We are proposing that there be an amendment to Bill 107 as follows: Subsection 41(1), which sets out the duties of the chief of police, should be amended to have a provision requiring the chief to keep the community informed about police activities and the events to which the police respond, in accordance with a more complete section set out later on.

That later section could then be added to provide that the police chief be required to release on a timely basis a basic description of events to which his or her force responds and to disclose, either as part of this release or on request, information that identifies a number of people: victims of crime, witnesses to crime, witnesses to events to which the police respond, those being investigated by the police and those accused of crime.

The only exceptions should be, when the release or disclosure of such information would involve a reasonable apprehension that harm would befall the person so identified, then that information perhaps should not be released; or if a suspect so identified would flee the jurisdiction on learning of an existing investigation into his or her activities, then the information perhaps ought not to be released.

If you flip to the back of our presentation you will see what was handed out yesterday by the Metropolitan Toronto Police. There is, first of all, a news release about gang squad members thanking school boards. Then there is a major news report with newsworthy items, a major news report, arrest and story, and a major news report, occurrences.

Every day the Metropolitan Toronto Police hands out this occurrence report. We are suggesting that the Police Act be amended to make it a requirement for all police forces that releases be put out of events to which they have responded in the previous short period of 24 hours. Included in that information, you will notice, is identifying information on a variety of people. What the identifying information allows us to do is

verify the information and inform the community accurately about what is happening in the community.

If it is happening now, why do we want you to amend the Police Act? First of all, the provision is not an obligation of the police department at the moment, and the experience we have across the province is different. It varies from jurisdiction to jurisdiction. We think there should be uniformity across the province. We also think it is an important thing for the police to be required to give this information.

As most of you well know, the problem is that a new freedom-of-information act was passed by the Legislature recently that will apply, as of 1 January 1991, to municipalities. There has been a great controversy since that was announced because what has happened is that while we have been living with freedom-of-information legislation for a number of years, and the OPP has been affected by it and we have been living all right with the OPP, the other police forces have now read the legislation that will soon apply to them and they say: "Hey, wait a second. Look at all the things we can't tell you." So our ability to get even occurrence reports like the ones I have given you is in jeopardy.

We are submitting to you in our basic thrust that it is vital to the community that this information be given, for a variety of reasons that are set out at pages 2 and 3. Before I get into that, the question might be, why should we amend the Police Act? Why do we not deal with this under freedom-of-information legislation?

There are a number of answers to that. The issue that we are talking about have a lot more to do with the accountability of the police than with freedom-of-information legislation generally. The freedom-of-information legislation was general legislation meant to apply to all government but was not directed specifically at dealing with the police. We know that from people who have talked to us who were involved in the drafting of the legislation.

Amending the Police Act would also be consistent with the Freedom of Information and Protection of Privacy Act itself. If you look at clauses 14(d) and 32(e) of the municipal freedom-of-information legislation, you will see that information can be released under that act if another piece of legislation specifically mandates that release. This is the place for that information to be mandated to be released.

There are other reasons why you should not deal with this under freedom-of-information legislation. One is that the release of people's identities is not presumed under freedom-of-information legislation. The opposite is the case. Under freedom-of-information legislation it is assumed you cannot give this information out. Amending the Police Act and putting a positive obligation on the police would reverse that and put the obligation where it really belongs, put the incentive where it really belongs, and that is for the police to hand out this very basic information.

Look at the reasons that are set out at page 2 of our submission as to why this information should be available to the public. First of all, if the police have to go through a weighing exercise that is set out in the freedom-of-information legislation, a number of pressures will be brought to bear on them. These pressures have nothing to do with law enforcement. They have everything to do with public relations for the police officers, the victims and other people involved. Police should be freed from this responsibility. It is not their job to be public relations officers for members of society at large.

Second, if the police make these judgements and they are required to make them, then their judgements will inevitably be

subject to suspicion. There are a number of examples of the police delaying release of information already. Releasing the identity of Marlon Neal was delayed for many hours. It should not have been delayed for many hours. One can come to the conclusion that perhaps their judgement in not releasing that information should lead to some suspicion. That suspicion ought not to be there.

If this information is not accessible, then there will be a significant decrease in the media's access to this information and coverage of crime. It is extremely important that we know what is happening in our community. Police should welcome this coverage. Society needs this coverage to assess the activities of the police, the safety of its neighbourhoods and how well existing laws are working.

Without access to real people and if we cannot get the identification information from the police, the media cannot make crime meaningful for their audience. It is one thing for us to know that a shooting took place somewhere or that there was a shooting on the Don Valley Parkway; it is quite another for us to know exactly who is involved and exactly where that is. If it is a store in my neighbourhood that I might happen to want to go to, it is important for me to know that there is a shootout or a hostage-taking at that place at that time.

Direct media access to people other than the police by the police giving us identifying information on victims and witnesses ensures that the media will get access to points of view on these events that are different from the official point of view given by the police. That is in the interest of society because it is a check on police power and it is also a check on the single perspective that otherwise the police would be giving.

Without this police disclosure, journalists would have to try to get the same information themselves, and they would. The result would be a greater likelihood of interference by journalists in the work of the police and a greater likelihood of confusion at the scenes of crime. There would be a greater likelihood of mistakes by the media in identification of people involved. If the media do not have the police ability to confirm that certain people are involved, then the media may make more mistakes in identifying people who are involved in crime, and that is not in anybody's interest.

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Finally, it is very important for the public to get accurate information, not rumours. If we do not get the information, accurate information, quickly, the public will be feeding itself on rumours, and those rumours can be very devastating to people involved. There are a number of examples set out on pages 3 and 4 of how the police provision of this kind of information has benefited society in a number of very particular circumstances, and I will leave you to review those or we can discuss them in answer to your questions.

I would like to give you another couple of points on this and then I will go to our second point and then we will be open for questions. In Montreal there is freedom-of-information legislation, legislation which has led to tremendous strains in relations between the police and the media. When Victor Davis, our Olympic swimmer, was hit by a car, the police said to everyone and released that a man was critically injured in a hit and run. They did not say who, did not say where. It was hours before it was discovered that it was him and that it was under certain circumstances. The media were exerting tremendous effort to find that information.

I understand that when there was the shootout in Montreal where the engineering school was shot up by a crazy person

who ultimately killed himself, the police in Montreal did not release a lot of this identifying information. They called a press conference, turned to the coroner and said, "You release the information," which to our mind is an abdication of responsibility. The police have an obligation to tell the community what is happening in the community. The incentive should not be the incentive that is in freedom-of-information legislation. The incentive should not be to withhold information, it should be to release the information.

Did you know that under the freedom-of-information legislation, if you, as a government person, hand out information improperly you could be personally subject to a \$5,000 fine? If you give out the information you do not get any kudos. Police should get kudos for giving out this information; they should be obliged to give this information. Amend the Police Act to get this information out.

We are arguing in this case for preservation of the status quo in many respects in legislation, improvement of the law as it applies to police across the province and to promote greater accountability of the police, as we have said.

There are two other provisions on page 7. You will see that there is a technical reference to changing certain provisions of Bill 107 to conform to section 9 of the Statutory Powers Procedure Act. Essentially, what that means is that if a meeting is being held and certain sensitive matters are coming up, the persons running the meeting should be able to close only that portion of the meeting where the sensitive matters are coming up and not be required to close the whole meeting down. Section 9 of the Statutory Powers Procedure Act clearly sets out how it should be done and we would propose that that model be adopted.

Finally, disciplinary proceedings: Subsection 56(f) of the bill says that it is an offence for a police officer to do anything that contravenes a provision that says that there should be no picture-taking at disciplinary proceedings. We do not understand it; we think it is contrary to public policy.

Furthermore, disciplinary proceedings, if they are indeed public, if it is important for the public to know what is going on in these circumstances, should be open to the public's cameras. If every detail can be published, if the gestures that everyone makes, the inflections that everyone makes, can be published in words, why can they not be published in video form? We have tremendous experience with royal commissions of inquiry that have been televised. I could rhyme them off for you. You know them as well as I. There is no problem in having television access to public proceedings.

We would urge you to consider removing subsection 95(4) of Bill 107, which suggests that there ought to be a ban on radio and television access to these public proceedings.

With that, we would be pleased to accept your questions.

The Chair: Thank you, Mr Henry. First, we have about three and a half minutes for caucus and I believe Mr Offer has a question.

Hon Mr Offer: I will be very short and thank you very much for your presentation. I think some of the concerns and issues which you bring out are ones which we too want to deal with and I think that, as I take a glance through your submission, you recognize that in many of the issues that you have brought up, we now do have a committee made up of members of my ministry, of the Attorney General, of Management Board and in fact of the Ontario Association of Chiefs of Police that is specifically looking at some of these measures in order to arrive at a guideline or a protocol dealing with the release of informa-

tion, much of which is now being done by the OPP. I noted that you indicated that you do not have that difficulty with the OPP type of release of information, but I think it is important that that type of guideline was developed by the OPP and it is that type of guideline which we want to construct in the municipal aspect of freedom of information.

The only thing I would ask by way of question, really, is that you have asked for something to be put in this legislation and I ask, when one talks about the sensitivities and the very many variables, is it really workable to deal with the release of information in this area through a particular section when we are talking about, for instance, incest victims, the ages of which vary, when we are talking about victims of sexual assault, the ages of which vary? When we are talking, as an example that you brought forward, of someone who may have been killed in a car accident, is there not an obligation through protocol that, prior to that information being released, there be some obligation to inform the next of kin?

How can that be put in legislation? I agree it has to be addressed, but I believe that it can be most effectively addressed through this type of guidelines, which we are now working on, which are in effect with the OPP, to address so many of the very valid concerns which you have brought forward.

Mr Henry: A few points: First of all, the freedom-of-information legislation, which is the rubric under which those guidelines are being addressed, is all wrong. It was never meant for this. That is quite clear from talking to the people involved in creating that legislation, and it creates a number of pitfalls that on a practical level make it unworkable. You have to deal with, first of all, the rubric that is there in that legislation and you cannot easily get out from under that rubric.

Second, if The Police Act had this obligation—and we are suggesting that the obligation is very much part of the accountability of the police and has been working to this point reasonably well in certain circumstances—if the Police Act had this obligation to disclose this information, it would take the whole problem out of the rubric that is in those guidelines.

The question you are raising is an interesting one, but have there been these problems? Have the media been publishing the identities of sexual assault victims, incest victims? No, they have not. First of all, there are legal restrictions on publishing these things. There are defamation laws. There are other laws of general application, for example provisions in the Criminal Code, that do not permit identifying these people. You cannot point to examples where this has been a problem as a practical matter.

What we are talking about is release of this information to the media where the media would then be able to contact the people involved directly, without the intervention of the police, to make judgements about whether they publish to the community at large. That is the way it has to be, because otherwise you have the police acting as a filter. You have a policeman acting as a public relations agent for that particular person involved, and the policeman has something very different on his mind than the interests solely of that person. The policeman has to do his job, first of all, in getting to the root of the problem. So information is very much a secondary thing in his agenda. Talking to the person about consent is very much a secondary thing in his agenda. The police officer may have some reason to convince that person not to give consent. The media need direct access to that person as a check on the police convincing that person not to give consent and as a practical matter.

Cite examples. There are no examples. We have none in our collective experience, in thousands of cases, where victims in those circumstances you have described have been concerned, have complained about release by the media of information that they have obtained from the police.

The Chair: Thank you, Mr Henry. We do have a couple of minutes left for the other two parties on questions.

1630

Mr Runciman: I will just make a couple of quick comments, and maybe there will be some time to respond.

I am not terribly sympathetic to the submission. I do not see that there is a real problem out there in respect to what is happening now. I know that if we just take a look at the Metropolitan Toronto situation, the Metro Toronto area, and at some of the coverage we have seen by at least one of the major dailies in respect to what it perceives to be policing problems in the last couple of years, I do not think that anyone can accurately suggest that they are being unduly restricted from access to information.

I guess I have some concern about things that can happen. I see some of the language in here, on page 6 under "Why Now?" In the second paragraph it says, "There is a crisis of confidence in certain of our police forces." I would challenge that and I would have some difficulty—there may be a crisis in the minds of certain individuals in society, but to make a blanket statement like that, that there is a crisis of confidence across society, disturbs me. That is the sort of thing that can occur and create difficulties where otherwise difficulties were not present.

I guess I would like to throw back at the gentleman and the witnesses appearing before us about accountability. He is talking about accountability here. Let's talk about accountability of the media. We have talked about some positive instances where reporting has worked in the best interests of society under the current system and current access to information. I am sure there are some other instances of horror stories where perhaps coverage of certain situations has created great difficulties for many, many years and many, many people.

When we talk about accountability I can look at the print media and the Ontario Press Council—a paper tiger. It is toothless and really has no real impact on monitoring and policing and providing accountability throughout the print media. I guess the CRTC is supposed to do the job in the electronic media, I do not know, but I have some real concerns when we start talking about accountability of police. I think by and large they are doing a fine job for all of us, as are most folks in the media, but I would think that perhaps there should be some looking at getting their own house in order before going after the police in our society.

Mr Henry: May I just respond?

The Chair: Very briefly.

Mr Henry: There is no question that the media are not perfect and there is no question that the police are not perfect. The question is, where should the gateway be to this information? We should all strive to be better, but the question is, where should the gateway to this information be? The point of this submission is that the gateway, in society's interest, must not be at the police level because the police have too many interests. It is too easy for the police to give only the information that is useful to them. That is not useful to society at large.

Mr Philip: You are fairly specific and detailed when it comes to how you would want access to public proceedings,

and I can understand your points on that. However, you are fairly silent when it comes to any kind of criteria that might be used to the release of information on those being investigated by police.

I ask you, since you say that it is a matter of balance, how do you protect the person's right to privacy who may be investigated by the police but who is only being investigated? Obviously, when the investigation is completed, he is charged and he goes to court. Then it becomes public information. But does that individual who is innocent and presumed to be innocent until he goes to court not have a right to some privacy? How do you protect the privacy of somebody on whom there is not sufficient evidence to lay a charge from having his name plundered in the media and having his neighbours feel that somehow he is a criminal, even though there may not be enough evidence?

The other concern I would have is that unless there are fairly strict criteria, how do the police protect an ongoing investigation from being inhibited by a premature release, so that other people who perhaps should be charged later on in the investigation may in fact flee or cover up the information and therefore get away with crimes which perhaps they should be charged with?

Those are two of my concerns with that one part of your submission. I realize it is a matter of balance.

The Chair: If I can interject, Mr Henry, we are running short of time and we want to try to get in several other questions from some of the members of the committee. So if you could be very brief, we would appreciate it.

Mr Henry: First, with regard to people investigated by the police and how to protect their privacy, what we are talking about here is release by the police of that information to the media, not release of the information by the media to the public at large. There are severe concerns when it comes to defamation, as to whether the media can publish that information. For example, if a very important member of the community is perhaps being unfairly investigated by the police, that may well be the subject of a media review, to go into why the police are harassing that poor individual. There are a number of reasons why we may want to do this. There are also a number of stories where we have published the fact that the police are investigating someone. Patti Starr is an example. There are useful examples.

I am just trying to remember the other point you raised.

Mr Philip: Interfering with a police investigation.

Mr Henry: That is what we attempted to capture in the exception which is set out at the page following the test, which says that if someone is going to flee the jurisdiction then we would not be given that information. Certainly there would be no desire to get in the way of an ongoing police investigation, but often it is simply a question of confirming that yes, there is an investigation going on into that individual. Often it is evident anyway because search warrants are being executed in a variety of places and it is a matter of public record. It is a question of getting accurate information to the media so they can continue their own investigation with a view to publishing or not publishing information.

Mr D. R. Cooke: It is not very often that I agree with Mr Runciman or Mr Philip, but I am frankly appalled at the tone of your brief. There are surveys time and time again of the Canadian public which show that the members of the Canadian public believe crime is much more rampant in this country than

it is. There are surveys which would show that if you took a group of members of the public and you accessed a crime situation to them through the media and you took a similar group to court, invariably those who go to court would always sentence the offender to much less than those who get their information through the media. I wonder whether or not you should be looking at yourselves and determining what kind of job you are doing in reporting crime and in sensationalizing crime.

In the example you give, of Victor Davis, you are suggesting there are allegations that the police were not acting as well as they should have at the time, and perhaps you are suggesting that they were trying to cover something up. In actual fact there is an inquiry going on right now. You have every right to be reporting that inquiry now. You have been reporting what went on. You did not have to have that information the night it happened. You did not have to have that information to be reporting it in maybe a less accurate way than you can now. I would suggest, as Mr Philip has, that far too often far too much information probably is available too early. When these matters get to court—

Mr Philip: I do not think I suggested that.

Mr D. R. Cooke: Maybe you did not go that far.

Mr Philip: I did not suggest that, nor did Mr Runciman and I have the same point. I certainly would not agree with what Mr Runciman had said.

Mr D. R. Cooke: I am not suggesting you said the same thing.

The Chair: Mr Cooke has the floor now. Your time is virtually finished, so please just come to a conclusion.

Mr D. R. Cooke: I would ask you to question yourselves as to whether or not you really feel there is a basic obligation on the police at the time of the initial investigation to be releasing information to you, as opposed to making certain that they are resolving a crime.

Mr Henry: Let me say one thing: The study that you mentioned is very instructive because what it says in reality is that when people get more information about a court case they understand it better. That is what we are talking about, getting more information to the public. You should not be creating a system or sanctioning a system that denies information. You have a legitimate point perhaps when it comes to what information should the media be publishing. I believe we are sitting here before you as very responsible members of the media. The question should be put in the media's court, and that is a legitimate debate. But that should not justify the police being the filtering point, because the police have their own interests. That is the concern. It is society's concern that the police not be the filter.

The Chair: Mr Sterling, could you keep it very brief?

1640

Mr Sterling: Very briefly, you talk about the conflicts within the police mandate and their interest in controlling information. I only suggest that the conflicts within your mandate probably give more compelling reasons not to trust you with the information rather than the police. I mean, you are in a profit-motivated system.

Mr Henry: We are in a loss-motivated system.

Mr Sterling: I know you are, but most people are. Most news is big business, big money, and if you can get a story on

the front page of your paper earlier than anybody else, that is going to sell newspapers or sell your TV advertisers or whatever it is. So the real question comes down to the amount of trust that you place in the control of this information. Quite frankly, the public trusts the police more than it does the media. That is the truth. That is what my constituents tell me day after day. That is the way it is.

You mentioned the case of Victor Davis and not getting that information. What possible harm has there been as a result of the withholding of that information for two hours, or even if in fact that information had been held for a day? What harm resulted?

The Chair: Mr Henry, because we basically are over our time and are cutting into our other presenters' time, could you keep it brief?

Mr Henry: On a practical level, what it means is that the media are going to try to duplicate the efforts of the police. They are going to get in the way of the police and there will be a distrust of the police for withholding that information. In fact, there was concern about the actions of the police in that case. If they had released the information, there might not have been that amount of distrust to begin with. Perhaps it was warranted or perhaps not, but the point was that if police are withholding information the public is going to ask why. If they are asking why, that is not productive.

Mr Sterling: So no harm resulted in that case.

Mr Henry: I do not know the case sufficiently well to be able to tell you, chapter and verse, what the harm was in that case. I am told by members of the media in Montreal that there was tremendous harm in that case. This is a person who was critically injured, who went to the hospital, who died three days later, who was a nationally known celebrity. He had fans throughout the country. We might never have known that information if certain people had not come forward.

Mr Sterling: We are talking about the time span for the police to notify the family of what had happened and in terms of dealing with some degree of discretion. I think there is a fine balance that you have to reach, but as I say, there are—

The Chair: On that fine balance, I am trying to do a fine balancing act up here in terms of everyone's time, and we are over our time. I do want to thank Mr Henry and his colleague for, first of all, presenting the brief and making copies available to us and being here to make some suggestions which I am sure will be taken into account in the deliberations of the committee.

Mr Philip: Give our regards to Patrick Watson. You are doing a great job.

ONTARIO POLICE COLLEGE

The Chair: Our next presenter will be Larry Godfree, director of the Ontario Police College, from the Ministry of the Solicitor General. I would ask Mr Godfree to please come forward and introduce any other persons he has with him.

Mr Godfree: I would like to introduce Bob Brock, who is a chief instructor at the Ontario Police College, and as this hour proceeds he may serve as an alternate voice. I apologize for the frog in the throat. He may come to my aid at a later moment.

The Chair: Mr Godfree, before you proceed, over the last several days some members of the committee have requested the clerk to request you to bring some information, documentation, with you. I just wonder if you could indicate for the

benefit of members of the committee whether in fact you have brought anything with you and the nature of that material.

Mr Godfree: I was uncertain as to just what materials were appropriate for this purpose. My original direction was that I bring a copy of everything that is produced in training at the Ontario Police College. We do in fact have over 2,000 printed study documents which fully consume four large cases. I have brought one copy of all 2,000 student handouts, and they are in a van in front of the building. I chose not to bring 44 cases. It is quite a large volume of material, but it is all-inclusive and, I am sure, would serve the needs of anyone who seeks to review it. I have made attempts to identify these various packages in subject-area component sections, but I have brought other materials that are much easier to read, in the form of calendars, and I am prepared at any point to hand those out.

The Chair: Some members of the committee have indicated great interest in the nature of the curriculum and the materials and the courses. I am just going to make a suggestion at this point, that perhaps we can get agreement with you that you would leave that material with the clerk and that it would be available to members of the committee and that you would, if requested by a member of the committee, reappear at some future time before we wind up our committee proceedings to answer any further questions. That is a suggestion I am making particularly to the two members of the committee who have made the request, and I just wonder if that would be agreeable to them?

Mr Kormos: I do not expect these people to duplicate it; they have got other things to do. I am wondering which of the legislative departments is going to duplicate this for us.

The Chair: First of all, as you may be aware, we are having a subcommittee on committee business meeting next Monday. I just wonder if we can talk about that process at that particular point. It may not be necessary to copy everything or it may be advisable. I am saying that it is my suggestion, and it is only a suggestion by the Chair, that we do proceed today to review whatever material is available in this room and that the materials which Mr Godfree has indicated, the larger bulk of the material, be left with the clerk, available to any committee member, and we can deal with that as the need requires. I do not think anyone is suggesting that it not be available. We are just looking at a reasonable process.

Mr Kormos: I appreciate that. All I am saying is I would like a copy of it. I know Mr Philip wants a copy of it. I suspect that other members of the committee want copies of it. Let's get the ball rolling so we do not have it two weeks down the road; then it is too late to have these people come back to comment on portions of it. These people are busy and this committee is busy.

The Chair: Mr Godfree, could you indicate roughly how many pages you would have in your van?

Mr Godfree: At least 2,000. Some of the handouts are simply one-page products, but in fact many of them are voluminous.

The Chair: I am going to make a suggestion—and I am in the hands of the committee at this point—that we do receive those at the clerk's office, that they be available for examination; and for any members of the committee who want to photocopy any part or all of that, perhaps they can make arrangements on their own rather than going through the unnecessary

expense and time and effort to make copies that voluminous for everyone. Would that be agreeable to you, Mr Kormos?

Mr Kormos: I was just taken aback. Mr Kerrio, I see, is on his feet speaking in the House. It is a red-letter day. In any event, yes, that is agreeable.

The Chair: I would ask Mr Godfree to please proceed then.

1650

Mr Philip: I think what I was asking for—and I just assume that, being a college, they would be able to provide this—some knowledge of andragogy and pedagogy; namely, a set of objectives for each of the programs, who their target group was, what their evaluation process was and what the methodology was. Any teacher who is in any way competent can provide that for any course that he or she is teaching, and most colleges have that. I did not ask for every handout that might be used in item 101. What I am interested in is what is the methodology, what are the objectives of each program, who your target group is—in other words, whom you are teaching—and what your end product is after you have taught these people. I think that is the kind of information I would like. I assume that being the experts in the field, you should be able to provide that.

Mr Godfree: We have provided it, and it is in the bundle. It was conveyed to us that all training documents were required for this presentation, and I have brought everything.

Mr Philip: Okay.

The Chair: I would suggest, then, that we go along with what I indicated previously, that the materials that you did bring with you be left with the clerk and may be made available to any committee member. They can basically decide what portions of that they want copied. If there is a desire to have you reappear to answer any questions arising out of that material, hopefully you will be agreeable to do so.

Mr Godfree: That is fine.

The Chair: Please proceed then, Mr Godfree.

Mr Godfree: I am privileged, Mr Chair, to be present today to make this presentation. Unlike other presenters, I am here, I believe, at the call of this committee to share with you certain information about our program. I have no particular position statement to make in respect of Bill 107, but I am here, as I understand it, to clarify certain of the issues surrounding training, basically to provide an overview of our training system, a summary of some of the courses that are available at the Ontario Police College, a description of the candidates who attend and the numbers of persons whom we train. I am to speak, as I understand, to our instructor qualification, to our student backlog and to recent developments in training. It is to that end that I plan to direct my remarks. If it happens that I am off target, I invite you, sir, to redirect me at any moment. I wish not to ramble.

If I may begin then, as an overview, the Ontario Police College is a part of the policing services division of the Ministry of the Solicitor General and is responsible for providing centralized training services to police officers in Ontario. We do not have a monopoly on police training; there is a certain amount of it that occurs at force level. The Ontario Provincial Police and the Metropolitan Toronto Police Force also have training academies of their own and do a considerable amount of in-service training, the kind of training that is required to update officers annually in the various physical skills that need

to be tested on an annual basis. The training at force level is very specific, generally to these standards.

We receive in training all 120 police forces for the province. Our training is at all levels, from recruit through to the most senior officer. Police training in Ontario can best be described as being in something of a continuum, in the sense that it is phased very specifically and directly over the course of a career. I will speak very generally to the first 15 years of that career in so far as the structured training is concerned.

Recruits are hired at force level and are kept for a minimum of 30 days for a period of orientation at the police force. They are acquainted with certain of the local bylaws. They are made familiar with some of the basic equipment that is issued to them. They are exposed to different facets of the police force. They have opportunity, many of them, to ride as a second party in a cruiser, and generally they get a feel for the kind of environment they have joined.

After the minimum 30-day period, they attend what we call a level-2 recruit training program at the Ontario Police College. They are there for 47 days. Those 47 days are a combination of physical training skills and academic skills that prepare officers at the very basic level to perform the police function. As I have suggested, I have brought calendars of the program that identify all of the topics that are included in the basic constable course, as in all other courses delivered at the college.

After the 47-day recruit-level program, officers return to their forces, and for a period of 12 to 14 months are involved in a form of internship or tutelage at force level. Specifically, for the first three months they are assigned to a coach officer, that coach officer being a select individual duly trained to perform the coaching function, who is the senior officer charged with accompanying the new recruit on a variety of occurrences and generally to be a fully directed partner for that individual for a minimum of a three-month period. Beyond that three-month coach-officer period, the officer is involved in regular police duties until such time as he or she returns to the college for more in-depth recruit training of another three weeks.

The phased program was initiated in January of 1988, it being believed that it was preferable to address certain specific training topics at a period in the career of the individual when he or she might best understand and be able to implement the training. So rather than doling out a 12-week or 15-week continuous program at the outset, it was seen to be profitable to phase training in over time at periods when the individual might most appropriately understand and relate to the training material.

After the second visit to the college, the individual returns to a force for a period of up to about 24 months, and returns thereafter to the college at about the fifth year for what we call an advanced training course, which is a review and updating enrichment learning experience where levels of knowledge and currency in the law and related matters are brought to the attention of the candidate.

This program ideally should be delivered after about the fifth or sixth year. Currently the college has the capacity to deliver an ATC training program once every 11 years, but I am going to speak to this issue of backlog and our plans to modify that according to input that was very favourably received from the task force on race relations and policing.

The further major training segments at the college: Beyond advanced training at the fifth year, candidates may attend and do attend in significant numbers at the college for what we call a police management program. Management training is given at about the 10th year for persons who are deemed to be qualified

as first-line supervisors or sergeants. They are on the force usually a minimum of 10 years before they attend at our facility for that kind of training. The training lasts over a period of five weeks, and I might add that at present we have not the capability to engage all officers at this level of training at the college. Metropolitan Toronto and the Ontario Provincial Police have courses that are very similar, if not identical, to our own, and these are delivered at their academies.

We have also a police management level 2 program delivered at perhaps another five-year period to persons with usually a minimum of 15 years of service on the force. This is a management training program at an advanced level. It is for officers above the rank of first-line supervisor, that is, staff sergeants or above. That course is also a five-week program delivered at the Ontario Police College.

In addition to the aforementioned generalist training in that phased program through these first 15 years, there is a whole series of specialized courses offered almost at any interval beyond recruit training for officers who are charged with a specialty function in a police force. Those specialty courses offered at our college, and there is a broad array of them that total something beyond 30 in number, include such things as criminal investigation, scenes-of-crimes officer training, mobile surveillance, CPIC terminal operator, fraud investigation, law and accident investigation. These kinds of courses are offered to police officers who want to obtain detailed knowledge in specific areas of expertise in policing.

1700

Currently, all of the courses offered at the Ontario Police College are so presented to police officers without any payment required by either the force or the individual officer. The province picks up the tab for the whole of the training.

I would like to include the description of candidates now attending at the college. For the most part, recruit officers who arrive at Aylmer are individuals aged 21 or 22 on average. About 20% of them possess university degrees. I would say that is a significant increase over what I have experienced in my years at the college. Indeed, in 1970 the percentage of university-trained police recruits was certainly less than 1%. At the moment it is somewhere in excess of 20%. Similarly, we have about 20% of our candidates who are graduates of law and security administration programs at community colleges.

Those numbers are not wasted on staff either. The staff at the college is similarly possessed of degrees to the equivalent of about 20%. We have three instructors who possess master's degrees and about 15 with bachelor's degrees. The similar kind of academic qualification is certainly infiltrating our staff as well. The average staff member at the Ontario Police College has something in the order of a minimum 12 to 15 years of police experience.

We have experienced in recent years a growing backlog of students. This has evolved gradually, particularly over the last five years. In the early 1980s, I guess during recession times, we had space to give away and indeed we did give it away in fairly large numbers—at least we did not give it away, we sold it—to candidates from foreign countries and persons requiring investigative training from various Ontario government ministries. We tried in those lean years to keep the building filled with students and indeed we did. We have no problem filling the building now.

There has been a considerable growth in the number of recruits. We average, at the moment, about 1,300 new recruit candidates trained annually. Our throughput of students in sheer

number at the Ontario Police College averages between 6,000 and 7,000 a year—this out of the 18,000 or more police officers now serving in the province.

We have a staff of approximately 55 instructors. About half of them are on loan to us from various police forces. They serve for periods of two to three years and bring a very enthusiastic and worthwhile dimension of recency to our program. I am very pleased with the balance and mix of serving officers and a permanent staff that can bring continuity to programs.

We process, in total, something in the order of 20,500 student-weeks of training annually. This compares very favourably with the volume of training conducted anywhere else in Canada. Indeed, we do more training by sheer volume than any other institution in the country.

We are currently backlogged. This very clearly is a problem that has developed and has caused our client group, the police forces, some serious concern. Many letters have been sent forward to the ministry speaking to the nature of the backlog. Last year, something in excess of 1,000 students wanting training were incapable of getting training. The letters and concerns that were brought forward did express a need for us to address the shortfall in training and perhaps some other quality issues.

As a result, the ministry moved to create a committee, a working group, that might examine police training and, in particular, the apparent inability of the college to address the known need and the backfall.

It was agreed, I might add, that there was representation on this working group from the Police Association of Ontario, from the college and from the Ontario Association of Chiefs of Police. We represented not only the larger forces but also the smaller forces. Those smaller forces have a particular need inasmuch as they are totally incapable of presenting any kind of reasonable in-service training of their own and they rely even more heavily on our facility and our capability than do the larger forces.

We represented all of the police client group on that committee and have met and dealt with the concerns over a period of the last six months, meeting once a week, sending out countless survey instruments to the client group, asking questions about the needs and the shortfalls, and identifying specifically the areas that should be addressed. It was agreed that there were two types of issues, short-term issues and long-term issues, and that the short-term issues could be dealt with by this committee.

The working group met first on 29 November 1989 and had its last meeting on 4 April 1990. The working group has presented its report and we anticipate some positive action with respect to the recommendations very shortly. I am at liberty to identify some of the recommendations that were made and some of these, I am pleased to say, will very adequately address this shortfall that has been reported quite freely in the press.

We will, for example, be able to increase our total student weeks from the present 20,500 to something in the order of 28,000 to 30,000, an increase of about 40 per cent overall. We will hopefully be able to address some of the issues in the Race Relations and Policing Task Force. One of those main issues addresses the need to requalify or retrain officers every five years. I suggested earlier that this was not the case at present because of the restrictions on our facility and our staffing. We are indeed at the moment on a turnaround period of about 11 to 12 years for that refresher training, but implementing the changes that are recommended here, I have every reason to believe the resources that are going to be required to augment training to this extent are going to be made available.

We look to increasing our refresher training in such a way and in such volume that we will indeed come very close to meeting, if not meeting absolutely, the task force suggestion that retraining ought to occur every five years. I am very optimistic that will happen.

We will be reinstating certain courses that were cancelled because of the shortage of space at our facility. Several of the courses that have had to be cancelled in the last four or five years will be reinstated. We will be delivering a number of our other courses to a significantly greater extent.

The Chair: If I may, we have four committee members who have indicated at this point that they wanted to ask questions and we do only have until 5:30 to do justice to the next presenter. We necessarily have to close the committee down at 6 o'clock under the rules of the Legislature. So if we do want to have any time for questions, if you can maybe abbreviate the balance of your remarks, we would appreciate it.

Mr Godfree: Absolutely. I appreciate the need for those questions. I will draw quickly to a conclusion but I would like to say that, having participated on the working group that explored the issue of the deficiency in training in the short term, I am very optimistic that the recommendations provided and identified in that report are going to address the shortfall in training most significantly and I expect we will be able to serve the client body in a much more professional manner and we will be able to meet the demands that are laid upon us by that group.

The opportunity certainly to ask questions with respect to this I leave to you now.

1710

The Chair: We have roughly about six and a half minutes per caucus and we have indications now from Mr Philip, Mr Kormos, Mr Smith and Mr Kanter that they want to ask questions.

Mr Philip: Am I correct that there is no requirement at the moment for a police officer to have any training at Aylmer, and if so, how many police officers are actually operating out there without having any experience of any kind of training whatsoever that you provide at Aylmer? Would you know that?

Mr Godfree: You are correct that the present Police Act does not identify training at the college as a mandatory function.

With respect to the second part of your question, I have no way of accurately assessing that. My sense is that 100% of the serving police officers in the province do attend at the Ontario Police College voluntarily or certainly at the direction of their respective chiefs of police.

Mr Philip: As you see it, does the present act before us require a certain standard of training, through Aylmer or through other training bodies, to require a province-wide standard for every police officer, as you understand and have read this act?

Mr Godfree: Yes, it was one of the most pleasing facets of the act from my perspective. I am most delighted there is an indicator that candidates must complete a prescribed training program. There is not a great deal of information in respect of what that program at the moment might happen to be, but in any event it is a far superior position than in the previous act.

Mr Philip: I guess it is one thing to say that somebody has to go through a training program, but if you do not spell it out,

you do not set objectives for it and you do not set up any kind of measurements then one wonders what that all means, particularly in light of your backlog.

Police training, particularly in the large urban areas, can be a very stressful kind of situation. You are involved with people of different experiences, different cultural backgrounds, different languages than your own. Can you tell us how much time an officer, say, who has spent five years in the police force would have had in terms of training through you or through any other media in what I would call behavioural enrichment programs—that is, stress management, role-playing and understanding of different cultures—so that one is prepared to deal with the different kinds of situations that one finds in a cosmopolitan multicultural setting?

Mr Godfree: The amount of that kind of training varies from course to course. There is a considerable amount of role-playing at the college in a practical exercise theatre that we use to great advantage. All students are exposed to one facet or another of that theatre. There are compulsory training scenarios that must be acted out. Many of these are sensitive to the issues of community sensitization to issues of race and behaviours.

If you are asking me, as I guess you did, how much time is actually spent by an officer over a given period, it probably amounts only to a matter of days, again depending on the program itself. When one considers that the length of the basic recruit program is 47 days, then obviously there are limitations with respect to the amount of time that can be spent on the behavioural sciences.

Mr Philip: Thank you. I had all kinds of other questions, but I will allow others.

Mr Kormos: What type of training does a current student at Aylmer get in terms of his initial training at Aylmer with respect to high-speed pursuits?

Mr Godfree: All recruit candidates, and we train only recruit candidates at Aylmer, in what we call our driver training program—that course runs over a four-day period. Interspersed in the four days are hosts of exercises that are identified to train the recruit candidate in the issues surrounding high-speed pursuits. We deal with a variety of containment exercises; in other words, how to deploy police vehicles to stop a fleeing vehicle.

Mr Kormos: How many hours are spent behind the wheel of a car?

Mr Godfree: I would say perhaps a little better than half of the time, perhaps 60% of the time, over the four days.

Mr Kormos: How many hours would that be?

Mr Godfree: That would be 60% of four days.

Mr Kormos: That would be 60% of four eight-hour days.

Mr Godfree: That is correct.

Mr Kormos: How recent is this program?

Mr Godfree: It is dated to 1982.

Mr Kormos: So that means the police officers prior to 1982 would not have had this training?

Mr Godfree: They have not necessarily had the Ontario Police College version of that training, with the exception of the Ontario Provincial Police force, which processed some 3,000 officers, persons who had served prior to 1982, on a special version of that same course somewhere between 1982 and—I think during the years 1984, 1985 and 1986, we engaged all OPP personnel in a special program.

There are other driver training programs available in the province. For example, Metro has modelled one after the program available at the college and it engages officers regularly in high-speed pursuit training.

Mr Kormos: Based on what we know, then, it would be unsafe to conclude that every police officer has received hands-on, in-car, high-speed training.

Mr Godfree: I do not think you can come to that conclusion, certainly. Although we at the college have designed a program that will be delivered to every police officer in the province addressing this issue in training in a self-study package that will be accompanied by various video tapes and a training officer to describe the self-study package. That will be made available to every candidate in the province before the end of the year.

Mr Kormos: Self-study?

Mr Godfree: It is a booklet with tapes and a training officer. It will lack the hands-on dimension.

Mr Kormos: Thank you. I appreciate that.

Mr Godfree: But it specifically addresses the issue of high-speed pursuits.

Mr Kanter: I am wondering if I could raise a rather broader question, the question of direction of police training. The act, as I understand it, emphasizes the service aspect of policing. You gave a lot of information about the structure of the courses at the police college. I am wondering if, in your view, given the different direction of policing set out by this act, we should be emphasizing more training at the police college or limited to police officers, or should we be encouraging more interdisciplinary training? Should we be treating the police college almost as a post-graduate sort of course? In terms of general direction, where would you see police training going in the future in Ontario?

Mr Godfree: That is certainly a very interesting question, and indeed I hope to be a part of a process that I understand is very firmly set in place to examine on a continuing basis just exactly these long-term issues that affect police training over the next decade and beyond. As a committee, at the outset we studied the short-term issues and the deficiencies in sheer numbers and our capability to handle the backlog. As a working group, we brought forward numerous recommendations, all of which are very pleasing to me in the sense that I know the client will be better served. I have no doubt of that.

1720

There is an issue, though, of the long term, and the very first recommendation made by the committee examining short-term concerns was that the long term for police training has to be examined very carefully. The committee, as I understand it, is set in place to proceed in that very direction.

Where I would have police training go at this point certainly is in an increasingly professional direction. I hope that we will be able to increasingly identify the formal standards and training programs that to some extent are missing in the program at the moment. I would like to think that we will continue to press for increased amounts of interdisciplinary training. That approach has increasingly been used at the college with success. We no longer operate in a vacuum. Many of the speakers and presenters at the college come to us from the community. The community is increasingly involved in all that we do and undertake at Aylmer. I would like to think that there

will be more and more of that. I am impressed with the increased academic credentials of our students, a growth from zero to 20% in terms of baccalaureate degrees. I see us heading in that kind of direction.

Mr Kanter: Perhaps I might put a supplementary question. I think Mr Godfree has, in a sense, kind of led towards it.

The Lewis task force was really very tough on all police training with respect to race relations. It stated in the summary we have before us that it was inadequate in content, delivery and commitment. "We believe that police should remain involved, but they are not equipped to do so without considerable civilian professional assistance." That really speaks to the short term and focuses very specifically on the subject of race relations training. I am wondering whether you could focus quite specifically on what changes may have occurred following the presentation of this report in the area of race relations training at the police college.

Mr Godfree: Yes, I have already mentioned some of them that were addressed by way of recommendations out of our short-term working committee; that is, the enhancement of training at the refresher level for five-year candidates. But in respect to the specific future of race relations training in our academy and elsewhere in the province. I am pleased to report that I have been involved very closely with the race relations and policing unit established by the ministry to address this issue in a very professional sense.

I was involved in the call for tenders in return. Indeed, we are looking at 14 June, this coming month, for a return of proposals from over 40 consultant groups that were invited to participate in the exercise of drafting enhancements and improvements to the existing race relations programs. We look forward very much to the input from this group and our continuing association with the race relations and policing unit.

My sense is that there is a very ambitious timetable established by those in that unit of the ministry and that they will be very hard pressed to meet their deadlines, but they are extremely optimistic that they can do so and I have no reason then to believe that it will not happen. For example, they will be undertaking a review of all of the training throughout Ontario, commencing 10 July and terminating 12 October. They will be looking nationally and internationally at training programs and race relations.

One of the issues here is that this is of course a most complex problem. In police training worldwide, most programs are very similar. You could not tell our program from the one at the Los Angeles police academy in many of the component parts of the course. We have our distinct differences, yes, but there are many, many more similarities in training throughout police academies worldwide. That cannot be said of race relations training. There is no universally identified best program. It falls to this race relations unit to try, if not to find the universally best program that might fit our needs at the moment, to create one. They are very optimistic that they can do it, and we are certainly on their side and will be working with them to that end.

The Chair: We have four or five minutes left. Are there any further questions?

Mr Philip: Under this bill, investigation is done as under the Metro police bill by police officers at the initial stage unless there are certain other extraordinary things that fall into place. Can you tell me what percentage of the police force in Ontario would actually have been trained in investigative techniques?

Mr Godfree: What percentage?

Mr Philip: Yes.

Mr Godfree: Well, certainly even the recruit course itself contains an element of investigative techniques training. I would have to say that all police officers have had some training. Indeed, we are convinced when they leave our college that they are suitably trained or we would not recommend that they be allowed to police the streets after a period of internship with a coach officer. So there is training available at the outset for all police recruits in investigative measures.

Now, quite understandably, we do not go into the specific kinds of detail that might be part of a homicide program or seminar at the college and we do offer a program of criminal investigation at a very senior level for advanced criminal investigation techniques for officers at the 10-, 11- or 12-year mark.

I guess the simple answer to your question is that every police officer is trained in investigative techniques in the province to one degree or another. Obviously there are programs of greater value and merit at the more senior level in a more specialized way. To the extent that we train specialists in criminal investigation, admittedly the numbers are not all that high, about 150 a year.

Mr Philip: I do not want to get into the argument which probably we will discuss with our next delegation as to whether or not the police should investigate themselves, but is it your opinion that the average police officer has enough training in investigative techniques actually to investigate the kinds of complaints that are being launched with, say, the Metro police complaints bureau or other complaints that may be launched at a police station against alleged abuses by a police officer? Do they have that training in investigative techniques to be able to handle that kind of investigation, or should there be some qualification or level of training before someone should be allowed to do that kind of sensitive investigation?

Mr Godfree: I would think that a combination certainly of years of service and training ought to be considered. I would not propose that an extremely sensitive matter be turned over to a brand-new recruit. I would suggest to you that the level of training made available at the Ontario Police College overall, and I include in that the criminal investigation training, is very high. We have requests to attend our college from every province in Canada, from countries worldwide. Our instructors are engaged in speaking, again, worldwide on these very issues. Our training is overall of a very high calibre.

Mr Philip: I wonder if I can ask you—

The Chair: Mr Philip, we have time for one short question and one short response.

Mr Philip: Okay. I wonder if I can just ask you a question in terms of the problems facing us more and more in our society in dealing with that unusual case of the fellow with a gun who is holding someone hostage. We have had the terrible case in Quebec, but every day we now hear of individuals holding hostages and so forth. Is it safe to say that most police forces are not, with perhaps some of the urban, metropolitan areas being exceptions, trained today in Ontario to handle that kind of situation of the psychotic personality or the hostage-taker for political reasons who has taken a group of people and is holding them at bay with a gun and threatens their lives?

1730

Mr Godfree: We do not offer a hostage negotiation course. All officers, from the recruit level upwards, are trained in basic containment practices; that is, they are made aware of the procedure to be followed should they become involved in an incident that has that very dangerous potential. They may not all have been privy, and probably have not all been privy, to a course on hostage negotiation itself. There is a program of that order at the Canadian Police College in Ottawa, but obviously there are limited numbers of people who have been able to take it. Help is available to any municipal force under a circumstance such as you have described by a simple call to the Ontario Provincial Police, which does in fact have trained negotiators on the force. But it may well be that same commodity is not available at a skill level such as might be desired within all of the smaller police forces in the province.

Mr Philip: It could take hours for them to get there.

Mr Godfree: Not the OPP, I would not think, no.

The Chair: Thank you very much, Mr Philip and Mr Godfree and Mr Brock, for your presentation to the committee this afternoon in answering the questions from the committee members. Did you want to make one final comment?

Mr Godfree: No, I just wish to thank you for this opportunity. Certainly we will make available the large volume of materials we brought, if I can be directed as to where to take them.

The Chair: Thank you very much.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Chair: I would ask to come forward, from the Canadian Civil Liberties Association, Alan Borovoy, the general counsel; Dan Hill, special adviser to the association and the former Ontario Ombudsman, and Catherine Gilbert, the research director. Would you please come forward.

I would indicate to you once again that we do have 30 minutes and necessarily we have to close the committee down at 6 pm under our rules. If you do want to leave some time for questions, we would appreciate it. Please proceed.

Mr Borovoy: Accordingly, Mr Chairman, I will try to talk quickly. I am Alan Borovoy, the general counsel of the Canadian Civil Liberties Association. At my left and your right is our able research director, Catherine Gilbert, and at my right while and your left is our distinguished former Ombudsman, first director of the Ontario Human Rights Commission and former chairman of the Ontario Human Rights Commission, Dr Daniel G. Hill.

I refer to that in particular because, although he has been quietly advising us for many years, except for those brief periods in which he was performing another public service—or lengthy periods, as the case may be—the events of the past little while and the distress felt in our organization about those events have prompted him to come here to join us. He will make his own statement about that in a few moments, but suffice it to say, that is the reason he has joined us on this occasion.

The events reached a kind of climax in the last few days with the statements attributed to Alan Tonks, the chairman of Metropolitan Toronto, and June Rowlands, the Metropolitan Toronto Police Commission chairman. I refer to their statements discussing the alleged disproportionate amount of crime committed by people in the black community. In our view, those statements are nothing short of inflammatory irrelevancies, and

we believe and we fear that those statements made by people holding positions of high public office of that kind can serve to legitimate the acceptance and adoption of double standards by our community in general and the police in particular in their treatment of blacks and whites in our community. That is the backdrop against which we make to you the submissions on the bill that I will now make. I must say, in making these submissions, conscious of time as I am, we will only refer to certain of the glaring problems and let the others go for the moment.

While we appreciate and welcome the fact that the concept of the independent complaints commissioner will be extended on a non-optional basis across the province, our problem is that the bill perpetuates the basic flaw that the Metro arrangement contains. I refer to the fact that the initial investigations for disciplinary purposes will be conducted essentially by members of the very police department against which the complaint has been filed. In our view, that is the central flaw in this whole arrangement.

It is interesting that in subsection 87(2), if the complainant decides to take separate action in court against the officer or the department, then the independent complaints commissioner will be required to do the initial investigation. That section is there, as sure as I am sitting here, because it is recognized that when a court case begins, there is a conflict of interest between the responsibility the investigator has to his department and to the integrity of the investigative process.

Our view is that that conflict of interest exists no less in every other complaint and there is no reason to make an exception. No matter how fair in fact that investigation may be, it simply cannot appear fair. Indeed, one of our concerns is that the complaint system simply will not get the volume of complaints that it ought to get from aggrieved people.

Let me just cast your minds back a couple of years. In this city there was a situation in which a police officer went to jail largely as a result of the testimony of a fellow police officer. This dealt with an assault on a prisoner. The police officer committing the assault went to jail. One of his fellow officers testified against him in court. According to the press, that fellow officer was subsequently cold-shouldered out of the department, treated so badly by his fellow officers that he resigned. How then do we ask members of minority communities to file complaints in situations where they have to confide their problems to people who have behaved as those officers behaved?

This is not designed as an attack on those police officers. I will leave the moralizing to another situation. Suffice it to say that incidents of that kind shore up the commonsense suspicion that police officers—as do many other groups in society; they are not unique in this respect, to be fair—will gather around and protect their own. You do not then have a situation where they are the primary people doing the initial investigations. In short, the system will lack the appearance of integrity if the investigations are conducted by people who have departmental interests to protect and collegial relations to maintain.

Another problem with the bill is the failure to provide that the independent complaints commissioner can initiate complaints on his own hook. We see that there are a number of improvements over the existing system, but he ought to be able to do it himself as well.

1740

There is a further concept that, in our judgement, is made all the more important because of what has been happening. You have heard and you have seen the report of the task force

which reports to us that there is a widespread perception in key sectors of the community that the police are quick to harass non-whites and slow to help them. When you deal with perceptions of that kind, it is not good enough any longer to have an exclusively complaint-centred response. Complaint-centred investigations cannot detect patterns and practices. We therefore recommend that the independent complaints commission acquire the power to audit the practices of the police without any complaints, and indeed by his own motion have the power to go in and look at practices so that we can detect and examine patterns.

Who determines, and on what basis, what the police investigate? They do not investigate everything. With respect to how they conduct the investigations, whom they investigate, whom they charge and with what offences, there is a tremendous amount of discretion being exercised that is effectively invisible to public scrutiny. Our view is that there should be available to the public a way of getting behind and learning the facts so that we can get a handle on how that tremendous and awesome discretion is being exercised.

Indeed, if you just consider for a moment the kind of material that surfaced at the Mount Cashel inquiry in Newfoundland, the Donald Marshall inquiry in Nova Scotia and the aboriginal inquiry in Manitoba, you begin to get a sense of the tremendous inconsistencies and double standards that have been employed in so many of our police departments across the country. Better that we should get a handle on it and attempt to prevent such things from happening, rather than wait for the next awful incident to occur.

I go from there to the special investigation unit. Of course, I am talking now about the investigations for criminal law enforcement purposes, not for disciplinary purposes. We appreciate the fact that the director of this unit will not be a police officer. Our view is the statute ought to provide that none of the members of that investigative unit be officers currently employed by any police departments in this province.

Moreover, we believe that the unit should not be housed in the office of the Solicitor General—submitted with special respect—but rather housed in the office of the independent complaints commissioner, because the perception will remain that those investigations may be influenced by the political interests of the minister in protecting the good public relations of the very departments for which he is held accountable. On that basis, in our view, contributing to and enhancing this whole necessary appearance of integrity for these investigations ought to be removed from there.

A word about employment equity: We would just say that before the employment equity plans are approved, they should be required to be made public so that the entire public can have something to say about how appropriate and how helpful they are.

Finally, a word about fairness to the police themselves: In our view, the bill perpetuates a basic unfairness to police officers. We cannot quite understand why, if a complaint is generated by an outsider, the police officer ultimately has recourse to independent adjudication if there is any question of discipline or discharge, but if discipline is generated internally, if he is discharged or disciplined as a result of an internally generated matter from his own superiors, he cannot go to independent adjudication, he has to go to his local municipal police board or the Ontario commission, the successor to the Ontario Police Commission. This is like telling an auto worker at General Motors that if his foreman disciplines or discharges him, he has recourse to the board of directors of General Motors

or to the local chamber of commerce. In our view, that is unfairness to the police and we believe that this bill ought to attempt more fairly than it does to ensure that police officers and complainants get a better shake than that bill currently provides; all of which is respectfully submitted on behalf of the Canadian Civil Liberties Association. I turn now to my distinguished colleague, Dr Hill, for his remarks.

Dr Hill: Thank you very much for inviting us here. Our able general counsel, Mr Borovoy, has and will continue to speak on behalf of the substantive matters in respect to this bill. I have just a very brief comment to make, because I think I have to.

Because of this latest incident in which yet another black person was shot by a police officer, we are in a dreadful situation in respect to building and maintaining confidence among the minority communities.

My own knowledge in this area began even prior to the many years I served as director of the Ontario Human Rights Commission, and its chairman, and beyond the term that I served as the Ombudsman for this province, which ended in 1989, at which time I pleasantly and peacefully retired, I thought.

Never, never has a relationship been so poor between the police and the visible minority communities. Never has the need been so great for prompt and decisive action by government. We are all here in the hope that with an effective Police Services Act, we can restore confidence in the concept that each and every police officer intends to serve and protect all residents of Ontario. I fully and absolutely support the Canadian Civil Liberties Association's recommendations regarding the proposed Police Services Act.

Going back for 30 years now as I review the situation, I was talking about problems in 1963 and 1964 when Commissioner Bick was here. Going back as I review this whole situation for many years, I firmly, absolutely believe that Asians, blacks, native Indians and others will not report complaints to the appropriate authorities until they can be assured that the initial investigation of each complaint will be conducted absolutely outside the police structure by independent investigators. Given the current very hostile climate, many minority persons will shun and boycott the system, I guarantee you. I believe it is time to regain their respect and to act with dispatch in passing a meaningful, effective Police Services Act, one which requires independent initial investigation of complaints. In my thinking, that is the crux of the whole matter.

In closing, I would state that we should remember our rich legacy in Ontario. Nearly 200 years ago, thousands of blacks, nearly 50,000, decided to seek freedom in Ontario rather than submit to the inhumanity and tyranny of the American slave system. They came here for freedom and justice. Now, in the turbulent 1990s, blacks and others look again for justice in its truest sense. Will you meet this challenge and live up to their expectations? I hope so.

1750

The Chair: We have about three and half minutes per caucus and the first questioner is Mr Polsinelli.

Mr Polsinelli: I would like to thank Mr Borovoy and Dr Hill for their presentation and Ms Gilbert for providing them with the information.

Ms Gilbert: You are welcome.

Mr Polsinelli: She needs some recognition. Research officers are usually shunned away, and they do all the hard work. Politicians know that.

Mr Borovoy: That is why we brought her here.

Mr Kanter: You are not suggesting these two guys cannot think for themselves, are you?

Mr Polsinelli: No, they were very eloquent and I think they drove their point home.

I am going to be fairly brief, Mr Borovoy. First of all, in terms of the special investigative unit, it is my understanding that the investigators are not going to be current police officers. I see the Solicitor General nodding. They could conceivably be former police officers, but they will not be current police officers. The legislation is not explicit in that regard, but I think we have the Solicitor General's confirmation to that effect. Perhaps he can speak to that item, because I would be concerned also.

Mr Borovoy: I hope you will appreciate that what I say in response to that is not a partisan comment, but this Solicitor General likely will not hold this office in perpetuity.

Hon Mr Offer: I am very sensitive to that.

Mr Borovoy: Therefore, we ought to have the guaranty of a statutory provision rather than a ministerial undertaking.

Mr Polsinelli: Without listening to the Solicitor General, I think that is a good recommendation and I am sure we can discuss it, because I also would be concerned, as I understand the special investigative unit to be established, if the investigators were current police officers. Perhaps we could have him address it right now very quickly.

Hon Mr Offer: I think the point is very well taken. It has always been the position, dealing with the special investigative unit, that the investigators under that unit would not be active police officers.

Mr Borovoy: My problem is, the bill does not say that and I think it ought to.

Hon Mr Offer: I recognize that concern, and we will be looking at that, but I think it is important, as Mr Polsinelli has indicated, that we do clearly get the statement on the record that it is not the intention that there be active police officers.

Mr Borovoy: Indeed, fortunately, my colleague reminded me that in some jurisdictions, just to make sure about that, recognizing that some of the them will be former police officers, it is even specified that they not be involved where their former departments were concerned either.

Mr Polsinelli: I think that is a very important point and I would be surprised if that were not addressed in amendments that are going to be brought forward, but that was sort of on the side. I wanted to talk a little bit about the bureau that is being established under this legislation.

I try to relate the bureau that is being established here to things I know. I guess the thing that I can relate it most to is a television sitcom, *Barney Miller*. I am not trying to trivialize this, but in *Barney Miller*, which is an American program, understandably, they have a department of internal affairs. The department of internal affairs is that branch of the police department in that sitcom that investigates police officers. Those members of the department of internal affairs in *Barney Miller* are treated with absolute fear by the balance of the police force, because when they investigate the police officers, the police officers are afraid of them. They may end up becoming the

black sheep of the police department because they are investigating their own. That is what I sort of relate it to.

In trying to understand this legislation, I understand it from the basis of creating something like this department of internal affairs as the bureau, but adding one additional component, which is the civilian overview, the civilian commissioner who would review the activities of this now department of internal affairs and, if not satisfied with what it was doing, could send in his own civilian investigators to do the investigation and examine the thing. Am I misunderstanding it?

Mr Borovoy: You have an interesting point. First, as far as sending in their own civilian investigators is concerned, that does not speak to our point that you will not get the complaints from many people in the first instance if they know that they only have police officers to talk to.

Second, you make a very interesting point about the dislike that police officers sometimes have had for internal affairs. Indeed, had I had more time, I would have fleshed out that very point and suggested to you that in our view, self-investigation is also unfair to police officers because what they have to worry about is that the officers conducting those investigations may be more influenced by interdepartmental jealousies and political considerations than the integrity of the investigation.

You may recall, or perhaps you will not but I will remind you, that in the mid 1970s the Metropolitan Toronto Police Association joined with the Canadian Civil Liberties Association. We went to see a former Solicitor General. We both agreed at that time that the investigations of civilian complaints ought to be done by outsiders. We also put on the table a number of protections for police officers when they were being mistreated by their superiors, and I added one of those salient ones today. But I think the problem with the existing system is that it creates unfair perceptions on both sides.

Mr Polsinelli: I appreciate that. Perception is something that politicians often have to deal with.

Mr Philip: Unlike Mr Polsinelli, I did not think that Catherine Gilbert had given you your ideas. I thought that perhaps you had read the Liberal speeches in opposition on the first police complaints bill, because that was certainly what you were asking for, what they said when they were in opposition. My, how times have changed.

Dr Hill, as one of the world's most distinguished ombudsmen, you have certainly done a number of things, including, under your own act—even under the act which will greatly diminish the powers of the Ombudsman, which this government has brought in—you have the power to initiate on your own an investigation and indeed to do the kind of audit that Mr Borovoy is advocating.

Do you see an irony that you as an Ombudsman could conduct this kind of thing, and indeed you did, systemic investigations into various branches of the public service, but that this Ombudsman in charge of police complaints investigations should not have that same power? Do you also see an irony that civil servants are not allowed to investigate themselves complaints that the public has about the civil service, but that under this act, at least at the initial stage, the police are going to investigate themselves? How can you have one type of Ombudsman who operates under one set of rules and another type of Ombudsman, namely, the kind that you were, operating under a completely different set of rules? Is there not an irony in there or a contradiction?

Dr Hill: All I can say is that in this situation, we had initiatory powers. We had certain audit powers. We looked at

systemic discrimination on our own as when I was Ombudsman. Indeed, that whole thing was instituted with the Ontario Human Rights Commission some years back, the same power. Now I would think that it is even more important in this type of bill for them to have that same kind of power, because these are the most difficult, most tense, most emotive situations I can think of.

As the Ombudsman, I had all kinds of emotional and distressful situations, but these are the kinds of situations that cause riots in the street. I did not have that kind of matter to deal with, but when you deal with the Police Services Act and you deal with investigating complaints of racism or whatever else, you are dealing with highly emotional situations and you need all the power you can get.

It is absolutely ironical that the bill does not include those same powers that the Ontario Human Rights Commission has and that the Office of the Ombudsman has. I would absolutely recommend it, particularly so.

1800

Mr Philip: One of the complaints of the NDP members on this committee is that the major decisions which are going to be made under this act are made under section 133, that is, the Lieutenant Governor will make it by regulation.

You talked about the employment equity section. Would you agree that the major decisions in this legislation are in fact not in this, that they are going to be made behind closed doors by the minister, in other words by the Lieutenant Governor in Council, and that that is a real threat to the civil liberties of both the police and indeed the public when decisions are made in that manner rather than being flushed out or at least tabled at the time that the legislation is tabled?

Mr Borovoy: That is always a serious problem. I recall the McRuer commission dealt with that some time ago. We understand of course that there has to be a certain amount of legislative power delegated to the executive because things come up in unanticipated ways and they have to have some flexibility. But of course the object of the exercise is to strike the best balance we can between what we anticipate in advance and what we delegate to them later on.

Mr Philip: Has that not been struck here?

Mr Borovoy: I have not gone through that with the kind of precision I have with the other sections, in all fairness. I am always uneasy when I see a long list of matters referred to the executive but, to be fair, I had to concentrate, because of the short amount of time available to us, on these salient issues that from our standpoint simply have to be cleared up at this stage of the game.

If there is anything else you would like us to look at that I have not touched and I have not prepared for adequately, I would be happy to take another look at that.

Mr Philip: Perhaps you can give us a written submission on it.

The Chair: I will ask Mr Sterling to please present his questions.

Mr Sterling: If you have additional comments, I would ask you to give them to us in writing, particularly on specific sections of the bill. I would appreciate that very much because I appreciate your feelings, both of you, in terms of your knowledge on these matters.

Can you help me in terms of the independent investigation, both at its initial stages and at its latter stages, as is provided in

the bill? Has that been experimented with or is it in place in other jurisdictions where we can gain some experience from it?

Mr Borovoy: There are other jurisdictions that do provide for the initial investigations to be done externally. I could try to prepare a list of some of them for you, if you like. Just off the top of my head, for example, I think San Francisco and Cincinnati do that. To some extent, we have the same thing in Manitoba.

Also, you should recall that the really big royal commissions we have had, the McDonald commission into RCMP wrongdoing and the Morand commission into police practices in Ontario, all used investigators from outside the department that was involved.

Mr Sterling: I would appreciate that as well.

I practised law some time ago now, but when I talk to many of my colleagues who do practise law and to provincial court judges, criminal division, who have dealt with many, many cases, it appears the natural tendency for anybody who is charged or is under investigation is to stall. None of us want to meet our Maker in terms of the judgement that is going to be brought down upon us.

Is there any concern, in opening up a process so wide in an initial investigation, for instance, or even the latter investigation, that you will stall the criminal process or open another

door for the person who is under suspicion or is being charged to stall the process unduly?

We continually hear of concerns about the process taking too long now and we blame the lawyers and the judges. In my opinion, it is usually the accused who wants it that way.

Mr Borovoy: It would be a very interesting thing for you to look at what really happens during the course of the internal investigations today. Until the independent complaints commissioner gets it, how vigorous is that bureau in questioning the officers involved?

I think it would be very useful for you to have some of the people come in here and talk to you about that. What has been the experience of the complaints office? They get to review what happens. How vigorous are they at the moment?

We have no reason to believe that there would be any additional problems in having outsiders do it. Indeed, I think there is every reason to believe that those investigations would be much more vigorously conducted from square one.

The Chair: On behalf of the members of the committee, I want to thank Mr Borovoy, Dr Hill and Ms Gilbert for their very lucid and useful comments. I am sure they will be given serious consideration by members of the committee. I want to thank you for your presentation.

The committee adjourned at 1806.

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J-15 1990

J-15 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Monday 4 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations and
Policing Task Force

Chair: Ed Philip
Clerk: Tannis Manikel

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le lundi 4 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Ed Philip
Secrétaire : Tannis Manikel

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 4 June 1990

The committee met at 1557 in room 151.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing

The Chair: The standing committee on administration of justice is now in session. We are in our third day of consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and to consider the Report of the Race Relations and Policing Task Force.

POSITIVE PARENTS OF CANADA

The Chair: Our first presenter today is from Positive Parents of Canada, Stewart Newton, president. Just before you commence, Mr Newton, I do want to suggest a change for our agenda for today. We are starting about 30 minutes late because question period went longer than anticipated and longer than normal. I am going to suggest that item 4, the report of the subcommittee on committee business, be slated for 5:30 or later, whenever it happens to come up, so that we will be able to stay roughly on schedule with the other presenters.

Mr Newton, if you would please proceed, you have about 30 minutes, including time for questions.

Mr Newton: I welcome the opportunity to speak. I believe this is the fourth presentation I have made to committees and commissions. Everything has been said, all the rhetoric has gone by, nothing much has changed since the first hearing. This presentation I have to make today is what I feel, and I feel very strongly, so I will read it.

Personal freedom or liberties should never ever be confused with personal licence. Personal freedom is a precious gift bequeathed to us by our forefathers and the thousands of brave men and women who fought and died for it. Personal freedom must always be bound by law. Personal licence, on the other hand, does not recognize or accept law; it is the law of the jungle. Personal licence is exercised by the murderer, the rapist, the robber, the thief, etc. The one who exercises personal licence states: "It's my body. I own it. I will do with it as I please, where I please, however I please." To those of such thinking let me please present the following arguments.

I own my car. It is mine. I paid for it. I will drive it any way I please, where I please, at any speed I please. I also own a building lot at Yonge and Bloor. It is mine. I have a deed for it. The taxes are paid on it, so I am going to build a stinking slaughterhouse on it. I also own a dangerous weapon. I have a licence for it. It is mine and I can prove it. I will use it any time I please, when I please, where I please. Now common sense dictates I cannot do as I please with any of these things I own. Why can I not? Because the law says I cannot, that is why.

If I witness some brute of an excuse for a man beating up his innocent, helpless children and his poor wife, would I back

off because he yelled at me to leave him alone because they were his? He sired them. He paid the medical costs when they were born. He feeds them. He clothes them. "They are mine," he cries. "Leave me alone while I exercise my personal licence. This wife is mine. I have a marriage licence to prove it so leave me alone." Would I back off? No way. If I was capable, I would pound his block seven ways from Saturday. In other words, my personal freedom stops just short of where it infringes on the freedom of others.

For every crime we have a victim; for every criminal there are loved ones who suffer shame and remorse as a result. None of us live unto ourselves. We influence all we come into contact with, whether it be for good or whether it be for evil.

Can you tell me what difference it makes whether a man dies from the bite of a deadly rattlesnake or gets hugged to death by a boa constrictor? The fact is, he is dead any way you look at it and he was killed by a snake. Our society is the most lawless society in the history of the world. It did not get that way overnight. It will not go away tomorrow. The white man did not invent crime. The black man, the red man, the yellow man, the brown man did not invent crime. It has been with us since the Garden of Eden. We all have free will to choose how we will live, inside the law or outside the law.

A home or a country cannot stand if it is divided against itself. The sovereign people of this nation all suffer from crime. We must learn that live fish swim upstream; dead ones always float down. We must, if we are to coexist in peace, unite as one and demand that our laws be enforced without compromise, fear or favour. Let me remind you that there is no protection whatsoever to protect us from liars. If lies are repeated often enough, they seem to become the truth.

Last year, I appeared before the committee chaired by Clare Lewis. Little did I realize that this anticop nincompoop, who was supposed to be open-minded, was harbouring such ill will towards the police. I sincerely hope that no member of this panel is like-minded, but realistically I know it cannot be solved. Where there are patronage plums, there are fruit pickers as well as growers.

To Police Chief William McCormack, I say:

"Big Mac, you and your brave women and men are number one. We, the law-abiding citizens of this country, salute you and pray that God will give you the wisdom to guide you through these troubled times. Police forces such as the one you lead are the only solid bulwark that will stand between us and anarchy if these purveyors of personal licence ever gain control of governing bodies."

I do not know whether you heard me or not, but thank you for sitting there and listening anyway.

The Chair: Thank you, Mr Newton. Are there any questions from any of the committee members? If there are no questions, then thank you very much.

METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE

The Chair: Our next presenter is from the Metropolitan Toronto Board of Commissioners of Police, June Rowlands,

chairperson. As I mentioned, you have 30 minutes, and that includes time for questions.

Ms Rowlands: I will do my best. I believe you have received our submission. I will go through it as quickly as I can.

The Metropolitan Toronto Board of Commissioners of Police is very pleased to have this opportunity to address the standing committee on its consideration of the new Police Services Act. The current act has been in place for over 40 years with only minor amendments. We congratulate the government for introducing this new bill, which represents a thorough rethinking of the structure and role of policing in this province.

Our commission oversees the largest municipal police force in Canada, comprised of approximately 5,500 officers and 2,000 civilians, responsible for policing a population of 2.2 million citizens in an area of approximately 240 square miles, a number that substantially increases, of course, with the inflow and outflow of commuters to work in the Metropolitan area.

A city such as ours becomes a magnet for both development and immigration, characteristics which make policing in this community an ever-changing challenge. We have identified at least 125 different cultures within Metropolitan Toronto and at the present time the police force can communicate in 67 languages. The board hopes that the new act will allow us to continue to maintain a safe city in this unique policing environment.

The board is in substantial agreement with most of the principles introduced in the new act but is concerned about: (a) one fundamental issue of principle, the greater centralization of authority contained in the act, and (b) a number of technical issues.

The issue of principle will be dealt with first in this submission. The subsequent items are arranged in the order they appear in the new act, with the board's recommendation cited at the beginning.

The board also wishes to advise the committee that the structure and responsibilities of our board are being reviewed and the board may be coming forward in the future with additional proposed amendments. There is very considerable concern about the number of appeals under the Police Act coming before the board. We are halfway through two very long hearings, the Pugh and Trumbley hearing and the Vetere case. In addition, there are at least nine others that are pending. In the Pugh and Trumbley case, the incident took place more than six years ago, and in the Vetere case, which is very complicated, the assault took place in 1983. That gives you perhaps some idea of the problems we are facing.

Centralization—Direct provincial control over local forces.

Recommendation 1: That no new prescribed standard of police service or area of responsibility of police forces be promulgated without the recommendation of the Ontario Civilian Commission on Police Services after it has received submissions from municipal police authorities.

The dominant feature of the bill is greater provincial control retained by the government over the provision of police services, as reflected by the new obligations of the Solicitor General under clauses 3(2)(a) and (b) to "monitor police forces to ensure that adequate and effective police services are provided" and "to ensure that they comply with prescribed standards of service."

The board does not argue against the Legislature's right to establish standards of police service, but it is concerned about the power of the government of the day to prescribe new standards of police service that may not reflect the needs or values of an individual community, and thus directly or indirectly inhibit

the necessary attention from being given to an urgent problem in that community.

A centralized authority responsible for a vast number of police forces of differing sizes, spread over a huge geographical area and facing widely differing community problems, is just not in a position to deal sensitively with issues that may be more significant in one municipality than another at any particular point in time.

The board is concerned that new standards or areas of responsibility could be introduced by some future government to respond to short-term political pressures without input from the board. Therefore, the board is strongly of the view that no new area of service or standard of service should be promulgated by the cabinet without first having the input of local boards. This could be accomplished through the mechanism of the civilian commission on police services.

1610

Funding.

Recommendation 2: That the provincial government bear the financial responsibility—I think this will be coming up often somehow—for any new area of service or standard of service prescribed or required pursuant to the Police Services Act.

The board is aware of the substantial economic burden that could be placed on municipal taxpayers by new standards of police service or new areas of police service set by the government. Currently, standards are set by the boards of commissioners of police, whose membership includes elected representatives who are responsible to the local taxpayers.

Under the new legislation there could be a shift of responsibility for determining the level of service from the local to the provincial level without the corresponding shift of responsibility to finance these services. The board, therefore, recommends that the provincial government bear the financial responsibility for any new standards or expanded areas of service required or prescribed under the new act.

Bargaining committee membership.

Recommendation 3: That clause 34(b) be amended to read as follows:

"A board may delegate to two or more of its members any authority conferred on it by this act, except... (b) the authority to bargain under part VIII, which the board may delegate to one or more persons provided that such persons bargain under the control and direction of the board or a board committee, and provided that nothing herein prevents the board from delegating to one or more of its members the authority to bargain on behalf of the board under part VIII or from attending bargaining meetings with the association pursuant to part VIII."

Under the present act and under the proposed bill, a member of the board must always be present at negotiations. The board recognizes the necessity of maintaining close scrutiny and control of the bargaining process. The board, however, is of the view that there should be some leeway in the bill for a board member or members to not be present at bargaining sessions provided that the board remains responsible for the conduct of the bargaining.

Police officers continue to meet criteria—this is almost technical.

Recommendation 4: That subsection 43(1) be amended to clarify that the criteria for becoming a police officer must continue to be met to remain a police officer.

This is almost technical and there is a short explanation.

Deletion of permanent resident status.

Recommendation 5: That clause 43(1)(a) be amended by the deletion of the words "or a permanent resident of Canada."

Clause 43(1)(a) of the bill allows a person to be appointed as a police officer if he or she is "a Canadian citizen or a permanent resident of Canada." The board is of the view that a person who has only permanent resident status should not be entitled to appointment as a police officer. The board feels that this status does not demonstrate the level of commitment to Canada that should be reposed in our police officers.

Length of probationary period.

Recommendation 6: That section 44 be amended to raise the probationary period to 24 months rather than the 12 months now set out in the section.

This is one the board feels strongly about. The proposed reduction of the probationary period for police recruits from the present 18 months to 12 months gives the board very real concern. It may be that there should be a different consideration for larger forces. I do not know.

The probationary period for police recruits really consists of two distinct segments: a portion devoted to training and a portion devoted to performance. Right now, the first 12 months of an officer's probationary period is largely taken up with training, in which a significant amount of time is spent receiving classroom instruction. Other than academic and physical fitness grading there is no true opportunity for evaluating how the officer will perform until he or she is placed on duty under close supervision during the concluding six-month phase of the probationary period.

The board is strongly of the view that the current 18-month period is not sufficient to evaluate how an officer will actually perform when confronted with experiences on the street and believes that a 24-month probationary period would be much more realistic and beneficial for both the needs of police management and the officers themselves.

A 12-month assessment period, much of which is spent in an isolated scholastic environment, is simply not adequate to prepare a person for these extremely critical responsibilities.

Extension of the probationary period.

Recommendation 7: That subsection 44(1) be amended to provide for an extension of the probationary period on the written consent of the chief of police and the association.

We do this now, and it is pointed out to us that we are on very shaky legal ground. The board recommends that the act permit the extension of the probationary period, with the written consent of the chief of police and the police association. Frequently, the absence of a probationer, because of illness, etc., or uncertainty concerning the probationary suitability, makes it desirable to extend the probationary period. Providing for police association consent will ensure that the extension power will not be abused.

Probationary period for officers appointed by another force.

Recommendation 8: That section 44 be amended to clarify that an officer who accepts employment with another police force should still undergo a probationary period, albeit of shorter duration than 24 months.

The proposed act is unclear as to whether an officer who has completed his or her probationary period with one force must undergo a further probationary period. Judicial interpretations of the current Police Act suggest that a further probationary period cannot be imposed. The board feels that a new police employer should have the right to have a new officer undergo a further probationary period, albeit a shorter one of perhaps 6 to 12 months.

Accommodating disabled officers.

Recommendation 9: That section 47 be amended to permit the accommodation by transferring an officer to civilian status.

The board feels that it would be helpful if this section specified that it would be permissible, if necessary, to accommodate by transferring the officer to civilian status. It may well be that the only duties an officer could perform would be those of a civilian position.

Discipline appeal hearings.

Recommendation 10: That clause 34(a) be amended to provide that a board may exercise its powers under section 63 by appointing its members as follows:

"34. A board may delegate to two or more of its members any authority conferred on it by this act, except (a) the authority to hear the appeals"—and I referred to this in the introduction—"of police officers found guilty of misconduct under part V, which the board may delegate to three or more members"—rather than the present requirement of a quorum, which in our case is four members.

There is an alternative recommendation that section 63 be amended by adding subsections 7 and 8 as follows:

"(7) The board may appoint a hearing officer to hear appeals pursuant to this section in place of the board and to recommend to the board what action it should take pursuant to subsection (3). The board may exercise its powers under subsection (3) without the requirement of receiving further submissions or holding a further hearing.

"(8) A person should not be appointed as a hearing officer if the person is a member of the force or had any previous dealings with the matter under appeal."

The bill continues the present requirement of boards to hear discipline appeals and that such hearings must be conducted by a quorum of the board. In the case of our board, this means that four members must sit to hear appeals.

The number and length of the appeals that come before our board are making these appellate duties very onerous. To illustrate, the board is currently, as I mentioned to you, in the midst of two very long hearings. One of these will be a four- to five-day hearing, the other a two- to three-day hearing. In addition to that, there is the time that is required with respect to a decision. We have at least nine others pending. So it is a very onerous responsibility.

To expedite the scheduling of hearings, the board recommends that the quorum required to hear an appeal be reduced to three. This would have the additional advantage of preventing a tie vote from occurring to frustrate a board decision.

An alternative option would be empowering the board to appoint a neutral third party to hear appeals, and there are arguments pro and con, of course, for that approach.

Discipline appeals—Participation in decision.

Recommendation 11: That subsection 63(5) of the act be amended as follows:

"(5) No member of the board shall participate in the decision unless he or she was present throughout the hearing of the appeal, but this subsection shall not operate to invalidate any decision as long as the number of members participating in the decision was not less than three."

Subsection 63(5) of the act provides that, except with the police officer's consent, the board may not give its decision in a discipline appeal unless all the members who were present throughout the hearing participate in the decision.

The board notes that this provision only becomes operative where the appeal is heard by more than a quorum. If we have five or six people hearing an appeal and then one has to drop out for some reason, the act would now indicate that that would

invalidate the hearing. The board is concerned that in such cases a member could become indisposed for reasons beyond anyone's control, rendering the board unable to make a decision. The board therefore recommends that subsection 5 be amended to permit the quorum to make a decision, and in accordance with the board's recommendation 10, that the quorum be three members.

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Legal counsel for discipline prosecutions.

Recommendation 12: That subsection 60(2), which provides that the prosecutor in discipline cases must be a police officer, be amended to read as follows:

"(2) The prosecutor at the hearing may be a barrister and solicitor authorized to practise in the courts of Ontario or be a police officer of the rank of sergeant or higher, or if there is none of that rank, a police officer of a rank equal to or higher than that of the police officer who is the subject of the hearing."

Subsection 60(2) of the bill provides that the prosecutor in a discipline case must be a police officer. However, police officers, and police associations on their behalf, are increasingly retaining legal counsel to conduct the defence. In response, chiefs of police are likewise retaining legal counsel to assist with the prosecutions, and in Metropolitan Toronto it is a solicitor from the Metro legal department who makes the prosecution submissions at appeals of our officers before the Ontario Police Commission.

Under the proposed bill, it will not be possible for the prosecution to obtain such assistance. Since the officer charged with the disciplinary offence is able to retain legal counsel, there should be no restriction placed on whether legal counsel may act for the prosecution.

Implementation of discipline punishments.

Recommendation 13: That an appeal to the board or the commission under section 63 from a penalty imposed pursuant to clauses (a) or (b) of subsection 61(1) shall not operate as a stay of the dismissal or the direction, as the case may be.

This particular recommendation, I know, presents real problems. The current act provides that no police officer who has been convicted of a disciplinary offence shall be subject to any penalty until any appeal has been finally disposed of. We have the Pugh and Trumbley case which occurred six years ago, and the appeal process rolls on. There are, I would expect, another two years of appeals under that case.

In addition, section 25 of the Statutory Powers Procedure Act provides that "Unless it is expressly provided to the contrary in the act under which the proceedings arise, an appeal from a decision of a tribunal to a court or other appellate tribunal operates as a stay in the matter except where the tribunal or the court or other body to which the appeal is taken otherwise orders."

The operation of these provisions has given rise to confusion which the new bill does not alleviate. The problem is particularly significant with respect to officers who have been sentenced to dismissal or to resign. Such officers continue to receive their pay as long as they are pursuing the appeal process, no matter how serious the offence or frivolous the appeal. Only if the appellate tribunal lifts the stay can the dismissal or resignation be enforced.

However, it should be noted that the right of the appellate tribunal to do so has been challenged at law. In fact we did, at one of the numerous appeals in the Pugh and Trumbley situation a few months ago move to indicate that their pay should

cease. However, it has been challenged on the basis that section 27 of the regulation precludes any lifting of the stay of penalty.

The appeal process is a lengthy one in part because the transcript must be prepared, which may comprise hundreds of pages—thousands, in some cases—and the difficulty of securing hearing dates which are available to all the parties. During this period, the taxpayers are funding a position for which no services are being provided and the public perception of the force is diminished because the force continues to retain an officer who has committed an offence serious enough to warrant dismissal.

No other employee enjoys the right to remain as an employee and in receipt of full salary after being dismissed by a tribunal of first instance. Indeed, most employees are dismissed prior to being heard by a tribunal, subject to the right of reinstatement and damages for lost wages and benefits, should the alleged misconduct not be established to the tribunal's satisfaction.

To redress this situation, the board recommends that the bill be amended as per the recommendation.

Excluded personnel.

Recommendation 14: That section 113 of the bill be amended as follows:

"'Excluded personnel' means a member or members of the force employed in a confidential capacity in matters relating to labour relations but shall not include a person in the rank constable, sergeant or staff sergeant."

Amend the definition of senior officer in section 113 to exclude "excluded personnel."

Amend subsection 114(2) to add "excluded personnel," so that the section reads: "The working conditions and remuneration of excluded personnel, the chief of police and the deputy chief of police shall be...."

Amend subsection 115(1) to include "excluded personnel," so that it reads: "If there is a dispute as to whether a person is a member of a police force or a senior officer or is excluded personnel, any affected person...."

A long-standing concern of police boards has not been addressed in the bill: personnel associated with confidential matters related to labour and employment relations and bargaining, including senior officer bargaining, are not exempted from representation by the police association or the senior officers organization. Such personnel are traditionally excluded from such memberships.

The board recommends that the same exemptions from police association and senior officers organization membership be extended to police personnel on the same basis as occurs with other organizations in our society.

In this recommendation, the board has adopted the definition for "excluded personnel" which is currently in the Labour Relations Act, clause 1(3)(b), which states "no person shall be deemed to be an employee...who, in the opinion of the board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations."

Bargaining groups.

Recommendation 15: That subsection 117(1) be amended to limit the number of bargaining groups to not more than three.

The board is concerned about the proliferation of bargaining units and the whipsaw that can result. It is very concerned with the empowering of a police association under subsection 117(1) to determine unilaterally both the number and composition of bargaining units with which a police board is required to bargain.

This would mean that the board would be required to bargain separately with respect to the employees in each category. The board would have no control over the determination of each category and would be required by the association to refer to conciliation and arbitration the resolution of disputes for each category.

The proliferation of bargaining units would enable associations to practise the whipsaw technique of attempting to achieve a certain gain for one bargaining unit and a different one for another.

The board recommends that the approval of bargaining units be limited to not more than three units: uniform, civilian and senior officers.

Working conditions to be exempted.

Recommendation 16: That subsection 118(3) be amended to exempt from bargaining not only the working conditions governed by the regulations to the act, but also the working conditions governed by the act itself. There are a couple right within the act.

In the current act, working conditions governed by the regulations to the act cannot be bargained by a police association and a board, a provision with which we agree. However, many of these working conditions, such as disciplinary procedures, have been transferred in the new act to the body of the act itself. The board therefore recommends that subsection 118(3) be amended to exempt not only the working conditions governed by the regulations, but also working conditions governed by the act itself.

Chief may advise board on bargaining.

Recommendation 17: That subsection 119(4) be amended as follows:

"The chief of police or his designate may also attend the parties' bargaining sessions in an advisory capacity to the board."

The role of the chief of police at bargaining sessions under subsection 119(4) is unclear. The proposed language of this section could be interpreted as placing the chief in an advisory capacity to both the bargaining committees of the board and the association.

I will not read the rest of it. I think it is fairly self-explanatory.

Board of commissioners of police title.

Recommendation 18: That section 135 of the bill, which refers to section 174 of the Municipality of Metropolitan Toronto Act, be revised to permit the retention of the name "Metropolitan Board of Commissioners of Police" but especially the designation of "commissioner" for its members.

The board is very concerned that under the new act, "commission" has been deleted from the title of municipal police boards and the members of boards will no longer be addressed as commissioners.

While the board agrees with the concept embodied in the proposed new title of "police services board," our members feel that the specific title of "commissioner" rather than the generic term of "member" is far more appropriate in the policing environment where members of the force are designated and addressed by rank, and in relation to the community where the boards have been trying to raise their profile. Removing the title of "commissioner" will have a retrograde effect on this latter process and perhaps lead to a diminished perception of police boards when so many other public supervisory bodies continue to be referred to as commissions.

The members of our board are proud of the crest of the board of commissioners of police and what is has come to

symbolize to the force and to the citizens of our community. The change in the title would end a long and proud tradition that has served this community very well.

The title of "commissioner" has been reserved in the new act for the head of the OPP, and it is fitting that this position have an imposing title. The board suggests that to meet the needs of the municipal police force, an alternative but equally distinct title be assigned to the head of the OPP in order that the terms "commission" or "commissioner" may be retained for the municipal police boards.

Other issues.

Special fund: It is the understanding of the board that the government intends to amend subsections 130(2) and 131(3) of the bill to provide that boards rather than chiefs of police will be able to use, in the public interest, the proceeds from the sale of unclaimed property and money.

The board supports this, as these funds have been used by our board over the years to support many of our outreach programs, the drug awareness campaign, attendance at community-sponsored events, fitness equipment for members of the force, assistance to members of the force who participate in national and international police-related events and so on.

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Regulations: The regulations in the current act include sections which set out a code of offences for discipline and a set of procedures for the disciplinary process. It would appear that no formal discipline could be taken under the new act until a requisite set of new regulations is passed.

The board understands that the government is mindful of the situation and that it intends to strike a committee, similar to the one that assisted in the preparation of this bill, to formulate new regulations. The board concurs in this committee process, which will allow input from the municipal police authorities, but wishes to impress upon the standing committee the absolute urgency of the new committee commencing its duties as soon as possible in order that the new regulations will be available when the new act is passed.

Thank you very much. If there are any questions I would be pleased to answer them.

The Chair: Thank you, Ms Rowlands. We have an indication from four committee members that they want to ask questions or make comments and we have less than four minutes left in the allotted time period, so I am in the hands of the committee. The previous presenter was more abbreviated than anticipated so we do have some additional time to allocate, but I am in the hands of the committee on that. Is there a consensus to permit more time for questions and comments?

Mr Polsinelli: I suggest we go for 15 minutes with questions and comments and that the members of the committee be given a few minutes each, if they so choose, to ask questions.

Mr Kormos: I was going to suggest 20 minutes, but Mr Polsinelli is far more conservative than I am.

The Chair: We will agree to 20 minutes for the two caucuses present. That leaves 10 minutes per caucus, and the first caucus to indicate an intention was the New Democratic Party so we will proceed with Mr Kormos.

Mr Kormos: Why should there be any provincial appointments on police commissions? The impression one gets is that these are political hacks who do not have any special expertise. They do not appear to have any official function in terms of reporting back to the government or in terms of getting direc-

tion from the government. Why would elected people, like yourself, want to see provincial appointees, especially when the vast bulk of police funding comes from ratepayers and there is political accountability?

Ms Rowlands: There is no question that you are putting the case for municipal councils before this body. I would suggest to you that the act is provincial legislation. I would also suggest to you that the new bill is laying out quite clearly the duties of commissioners or members of boards. In addition now there is an accountability section which has been added, which I think is good.

There is going to be a requirement for accountability which is necessary. We argue against it, on one hand, saying too much centralization is not too great a thing if it can be acted upon in an arbitrary manner for short-term political reasons, perhaps by a government in some future time. On the other hand, we support the idea, the concept of the provincial government setting standards and also requiring accountability.

Mr Kormos: Fine, but what does a provincial appointee do that people chosen by their own council, be it regional or municipal, cannot?

Ms Rowlands: I do not mean in any way to suggest that the municipal councillors on our commission are not carrying out their function admirably, because they are. The people who are members of Metro council, from the chairman of Metro council down, who have major responsibilities and a very large regional government, which is probably the fifth largest in Canada, do not have the time—may I suggest even the energy—to put into the commission what it requires. The civilian members—if you like, I do not know how we will designate them—or provincial appointees may in some circumstances have more time at their disposal.

Mr Kormos: You bring up Metro Chairman Mr Tonks. The press reports that he had said it was logical for police to fear blacks because they—presumably blacks—commit more than their share of crime. The same press also reports that you came, as chairman of the commission, to Mr Tonks's defence. How could you defend that type of statement?

Ms Rowlands: I did not come to his defence. What I did was clarify a statement in answer to a question. However, I am not going to get into a debate this afternoon about stats. I will simply tell you quite clearly that the police do not keep crime stats in terms of race or people committing them. I was simply clarifying a question that was asked to me directly by a reporter, and I shall always do that.

Mr Kormos: The 1 June Toronto Star, in the column called The City by Susan Pigg, indicates that you produced, for at least that reporter among others, a pile of police sheets—the list of armed robberies, thefts and other major crimes—and that you pointed out that many of the suspects are black. How could you do that if indeed you say the records are not kept with those data in mind?

Ms Rowlands: What is kept are the major police occurrences. We get a sheet every day of the major occurrences over the past 24 hours. Those sheets are an indication of the major ones, not the small ones, not all the street stuff, and a description of the individual or individuals who are being sought. It is that which is available, and when I am asked what stats there are and what information there is, it is that; it is public information that is out there every day.

Mr Kormos: Two black kids have been shot in the recent past in Metro and area. In both instances the shootings are by police officers. Do you think your conduct, in terms of even appearing to come to the defence of Metro Chairman Tonks or referring to black crime stats, is appropriate in view of the incredible sensitivity that there is in the community to the tension between the police force and black people?

Ms Rowlands: I do not think that by your question you are adding—in fact, I think you are adding to the problem.

Mr Kormos: Oh, that is big of you, Ms Rowlands. Your comments about police crime rates contribute to—

Ms Rowlands: Oh, come on now, calm down.

Mr Kormos: No, you calm down when you make irresponsible comments like that to the press.

Ms Rowlands: Look, I am sorry. I would like to make it perfectly clear—

Mr Kormos: It may not be the police force that is racist; it may be the commission that is racist.

Ms Rowlands: Oh, come on. Now, that is unnecessary.

Mr Kormos: Pay attention to your own quotes.

The Chair: Order.

Ms Rowlands: Mr Chairman, I would ask that you would check this individual. I mean, it is great to posture like that—

Mr Kormos: Pay attention to your own quotes, Ms Rowlands.

Ms Rowlands: I do.

Mr Kormos: Read some of your own press. You should be ashamed of yourself.

Ms Rowlands: Do you read yours?

The Chair: Are you finished, Mr Kormos?

Mr Kormos: Yes, Mr Chairman.

The Chair: Mr Philip, please proceed.

Mr McClelland: Mr Chairman, excuse me. Mr Polsinelli has a point of order.

Mr Polsinelli: I would suggest that we are dealing with a very sensitive and delicate issue. Exchanges such as we have had in the past few minutes do not help the issue. Perhaps what we can do is talk about the bill that we have before us. There are a lot of items that are worth discussing in the bill, and if members of the committee narrowed their remarks to the item before us, we could get a lot done.

Mr Kormos: We would like to. The Liberals are trying to ram it through. Come on, cut the crap.

Mr D. W. Smith: Talk about the bill when you get the chance then.

Mr D. R. Cooke: You have not shown any signs that you have even read it yet.

The Chair: Mr Polsinelli, are you finished with your point of order?

Mr Philip: Mr Chairman, I trust that the point of order did not take away from my time. Alan Borovoy, appearing before us here along with Dr Hill, who is a person of unquestionable

integrity, stated about the statements attributed to Alan Tonks and June Rowlands:

"I refer to their statements discussing the alleged disproportionate amount of crime committed by people in the black community. In our view, these statements are nothing short of inflammatory irrelevancies, and we believe and we fear that those statements made by people holding positions of high public office of that kind can serve to legitimate the acceptance and adoption of double standards by our community in general and the police in particular in their treatment of blacks and whites in our community."

Those were not the statements of Mr Kormos, who you seem to say is somehow inciting on a sensitive issue, but are the statements of no less a person than Alan Borovoy, and Dr Hill who is here agreeing with him. Do you have any comments on that kind of statement by no less an organization than the Canadian Civil Liberties Association?

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Ms Rowlands: Yes, I know both the gentlemen. They have a right to express their opinion. I would like to assure this committee that this police force does not have a double standard, that it does not treat people of different races in a different way, and while we absolutely admit that we may have racists on the force—and I would be surprised if there were not because that is one of the problems within our society—this force is doing everything possible to eradicate those attitudes.

What I would like to point out is that our new recruits have 14 45-minute periods on race relations and human rights training within the first five weeks of their training. In fact, it is second only now to Criminal Code training. There is a very concerted effort on the part of our force to reach out and try to correct any of these attitudes that exist.

Mr Philip: Recommendation 10 of the Lewis task force is as follows, "The task force recommends that, by December 1989, the regulations of the Police Act be amended to require all police forces to allow members of the Sikh religion to wear their religious symbols." It goes on from there. I am sure you are familiar with the recommendation. This act does not do that. Is it your opinion that this would be helpful, or should it be dealt with at a local level by local police forces; in other words, have a different standard from one police force to another, as appears to be the municipal option taken by this government?

Ms Rowlands: Our police force allows the wearing of a turban and has for some years. It is not anything that our commission has discussed. It is simply a non-issue as far as we are concerned and I would not like to comment as to what the commission's decision is, whether it should be a local municipal decision or whether it should be within the bill.

Mr Philip: Does it not seem reasonable that Sikhs living in communities other than Toronto should have the same rights as those who do, through perhaps some enlightenment on your part, what you have enacted here in Toronto and indeed that the federal government has put into the RCMP at the present time?

Ms Rowlands: That would appear to be logical and it would appear to be neat, but I am not familiar with the arguments against that so I repeat, I do not particularly want to express an opinion on it. I am not familiar enough with it.

Mr D. W. Smith: Ms Rowlands, on page 7, recommendation 5 is, "That section 43(1)(a) be amended by the deletion of the words 'or a permanent resident of Canada.'" When I read this I had some concerns myself and I do not really know what

people we might be talking about. I wondered if you could expand your thoughts, maybe your discussion as to what group of people or groups of people you were thinking about when you think that "permanent resident" just is not good enough. Could you expand on that a little bit?

Ms Rowlands: The feeling of the board was that the permanent resident of Canada who has lived here long enough to understand the difference in our culture, to have some idea of common law, to understand some of the concepts of our society and how it differs from others, if that person has lived here long enough, surely the duties of citizenship should be adopted by him. They should agree to take on the duties of citizenship. If they have not lived here long enough, they do not understand or have not absorbed the culture sufficiently, there are probably problems inherent in them. Because, after all, police officers are the only agents, public servants if you like, who can deprive people of their freedom. The armed forces apparently, as we made inquiries, require that.

If we want to take it to a very great extreme, and this of course would never be contemplated by any board, you can become a permanent resident of Canada and not live here, which surprised me. That is really taking it to its very logical extreme. There are many people here who live here as permanent residents who do not take up citizenship because they do not want to lose the citizenship in their own countries. Many of us have American friends, and they do not vote, of course, in elections. It is a question of philosophy or a question of responsibility.

Mr D. W. Smith: I guess I did not realize that there are people who would not live in this country who would still be considered permanent residents.

Ms Rowlands: Of course, no police commission would ever consider hiring such an individual. That is just simply taking it to an extreme. That was the general feeling of the commission.

Mr D. W. Smith: You would not know of any police now who are just called permanent residents?

Ms Rowlands: I do not think there would be in our force because the requirement now is citizenship.

Mr D. R. Cooke: Maybe I can clarify the last conversation a little bit. I think you have to live here 186 days a year, and if you go over that you are in danger of having your permanent residency removed.

Ms Rowlands, your presentation was very interesting, in part because of some of the omissions. You have not commented on section 31, which gives police commissions more power. The allegation of some police chiefs is it is taking that power away from them and perhaps that could be abused in a political sense, to force a police chief to put more cars in Rosedale when he thinks they may be needed somewhere else, or things of that nature. I wonder if you could comment on that criticism.

I also note that you have not made any comment whatsoever on the new system that is being proffered with regard to public complaints, with the special investigations unit. These are pretty major changes in policing, and I am surprised that your commission has no comment whatsoever on them.

Ms Rowlands: Those areas of the bill with which we are in agreement, and we happen to be in strong agreement with those areas, we have not commented on. Our force has had a public complaints system now for some years. I think the com-

plaint of our board was that it was the only force that was subject to it, and so it is welcomed that this complaint process, which works very well, is expanded across the province. With respect to the other matter of the independent investigation—I think that is what you referred to—that has long been supported by our force. That is a step forward, so we support that.

With respect to the added responsibilities perhaps, or perception of that, or how that is going to work out, I think it will depend a bit on the regulations how that is going to be interpreted exactly. We have no quarrel with that. Any sections of the bill that we have not commented on, we support. We strongly support the equity employment sections of that. We support those new directions of the bill. What I brought up here are mainly smaller corrections, some of them technical.

Mr D. R. Cooke: To take this a little out of your context, suppose the Waterloo regional police commission decided it would be nice to open a police station in New Hamburg even though the chief feels he needs those resources somewhere else. Should the commission be able to make that decision?

Ms Rowlands: Yes, I think in the final analysis, because that is more than just the day-to-day operation of the police force. I do not think the commission has sufficient information or the detailed understanding, particularly because most commissioners are very much part-time, that they can interfere in the daily operation of that force. But in a situation such as opening a new station, which is a fairly major kind of thing, I would think the commission would have had hearings, would have discussed it thoroughly with the chief, and if there was still a very strong feeling that station should be opened after all of that, I would suggest that yes, the commission should have the authority to do that. The chiefs will not like that.

The Chair: We have a small amount of time left for Mr Curling, so please proceed.

Mr Curling: I got a bit confused with recommendation 5 and your last remark about the deletion of "or a permanent resident of Canada," that it should be struck. When asked by Mr Smith if there are people within the force who are permanent residents without being Canadian citizens, you said you did not think so. Are you telling me then you are exorcising a law that was not there, to say that you will not accept any people who are permanent residents? May I ask the question again? Are there any permanent residents?

Ms Rowlands: I may be wrong, but it is my impression that in the present Police Act it is a requirement to be a citizen. Mr Campbell is looking that up, but it is my understanding that at present that is the situation, in which case there would not be any on the force.

Mr Curling: Why would you then ask for a deletion of that?

Ms Rowlands: Because the recommendation for the new Police Services Act is suggesting permanent residents. We are saying we do not agree with that in the new Police Services Act. It is my understanding that it is not in the Police Act. Does anybody know?

Mr McClelland: Yes, I could help. In the current act, under regulation 791, section 30 to the regulations, the requirement for the appointment of a police constable is that he or she must be a Canadian citizen or a British subject. That regulation has been embodied in the act in section 43, and you are quite right that the wording of the act as presently drafted is "a

Canadian citizen or a permanent resident of Canada." So there is a significant change.

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Ms Rowlands: Yes. So that is the answer to the question. In the present act it is not possible to be a permanent resident and be a police officer, so I would guess we do not have any. We really do obey the law.

The Chair: Thank you, Mr Curling. I believe your time is up.

Mr Curling: I thought it was five minutes that we all were allotted.

The Chair: No, there was 10 minutes allotted to each caucus. Mr Brandt came in after the allotment of the two time allocations, so he has volunteered to place two very short questions.

Mr Brandt: I do apologize to the chairman, members of the committee and Ms Rowlands for being late. I did have another commitment.

I wanted to address a question that has not been raised at this point, although you do cover it in the parts of the brief that I have had an opportunity to read. It strikes me, as one goes through the proposed changes, that there is a rather dramatic shift from more local autonomy, as the whole aspect of policing is now handled, perhaps into the provincial realm where certain decisions can be made by the Solicitor General or by the province of Ontario with respect to police levels that would be looked upon as desirable or changes that perhaps have financial implications associated with them. You do make reference to this in your brief and I wonder if you have taken the time, or whether it is even possible, to quantify what the financial impact might be on your police force. Do you have any idea what that cost might total?

Ms Rowlands: It would very much depend on what particular decision was made that was passed on to the local boards to carry out. I have no way of guessing what that could be. I just cannot imagine and I do not think speculation is too useful at the moment, but it could be very expensive of course. That is why we are suggesting that in fact COPS, the new board that will be set up within the ministry, be responsible for hearing deputations, so at least the opinion of the local board is there before any new requirements are brought forward. We point out that Ontario is a huge area; the police forces vary from very small forces to big ones. The requirements are very different and it is very difficult to legislate uniformly. So we do have concerns about that. I could not guess the cost. I would suggest that, depending on what decision was made, it could be quite substantial for us.

Mr Brandt: That is the answer I rather expected, because the decision of course will lead to what the ultimate cost will be. However, do you see anything that will give you some protection within these proposed changes, that will allow you to either appeal a decision of the Solicitor General, who is in attendance here today of course and who I know would never make a bad decision knowingly?

Ms Rowlands: None of us does that.

Mr Brandt: However, if a decision that was less than attractive was superimposed on a local police force such as yours—it may even have a more dramatic impact on a smaller police force depending on the way in which the decision was

arrived at by the Solicitor General—do you see anything here that will allow you to make a submission to the Solicitor General or to fight your case that this is beyond your financial capacity or that it is unnecessary, not needed or whatever? Do you see that in this act?

Ms Rowlands: No. If it is here, it is obscure, let us say. We did not see it and that is why we are making the recommendations we are that there should be an appeal, a hearing, before COPS, the new Ontario Civilian Commission on Police Services, and if these new police standards or police requirements involve funding, which must of course be provided at the municipal level, that the province indicate how that funding will be provided and take responsibility for it.

Mr Brandt: Those are my two questions in my 10 minutes.

The Chair: Your two short questions.

Mr Brandt: I will be on time next time to get my full 10 minutes.

The Chair: Ms Rowlands, thank you very much for coming before the committee, making your presentation and responding to our questions. I am sure the information you provided will be useful in our deliberations. I thank you on behalf of the members of the committee.

CANADIAN DAILY NEWSPAPER PUBLISHERS ASSOCIATION

The Chair: Our next presenter is from the Canadian Daily Newspaper Publishers Association. Please come forward.

Mr Baird, would you please identify yourself and the group that you are with.

Mr Baird: I have some colleagues who are joining me here. I am Sandy Baird, the publisher of the Kitchener-Waterloo Record and past chairman of the Canadian Daily Newspaper Publishers Association. On my right is John Downing, the editor of the Toronto Sun. On my extreme left is Jim Grossmith, editorial director of the Cobourg Daily Star. On my left is Ian Urquhart, managing editor of the Toronto Star.

The Canadian Daily Newspaper Publishers Association, which we represent, represents 85 Canadian daily newspapers and virtually every daily newspaper in Ontario. CDNPA is expected by its members to be a catalyst in finding policy directions in areas that affect the flow of information in Canada.

As major information publishers, daily newspapers in Canada are in the business of gathering news and advertising information, and no industry in Canada makes a greater investment than daily newspapers in the gathering of information intended for use by the public. I am not going to wax eloquent on the role of daily newspapers. We respond to the legitimate interests of society. We think we perform a useful and vital role in informing our citizens of what is transpiring in our society.

I would like to make crystal clear at the outset we are not in any way, shape or form going to bash members of the police service. We have no intention of denigrating them in any way.

I will acknowledge from the top that we are a business, but newspapers transcend the pure business function. We believe we have a purpose that, as I have said before, is vital to society. Freedom of the press means freedom of the public to access to information. Media have and claim no greater rights than the public to the free flow of information.

Our role today: The committee is examining a proposed act that talks about the duties of police and stipulates certain basic

policing functions. Access to information by the public is part of the conduct of the police and is an appropriate duty for the police. We know that the police have a job to do and we are not trying to interfere in any way with that. However, we want positive obligations placed on the police to provide certain information to the public.

Newspapers are faced with having to litigate for information on behalf of the public; this is very expensive and it is not appropriate in democratic society, and it would not provide contemporaneous information. The free flow of information about the administration of justice is part of the conduct of the police.

Newspapers are faced with a great deal of inconsistency throughout the province as to the control of and the free flow of information; it varies by force and by locale.

CDNPA has already met with the Solicitor General on 12 April 1990. The minister is aware of our position, which was also confirmed by letter to him. The minister agreed with the position of CDNPA, at least with respect to people charged with offences, that there is no reason to withhold this information.

What we are actually seeking are three specific amendments contained on pages 3 and 4 of the small document to which I would like you to refer. This is what newspapers recommend. Newspapers recommend that police be bound to inform the public about certain specific matters.

The accused: Police must inform the public immediately that a person is charged with an offence for which there is a statutory sanction, including charges under the Police Act, and identify such person at the same time.

Victims: Police must inform the public immediately that a person has been victimized by a criminal act and must at that same time identify that person, unless the police have reasonable and probable grounds, of which the proof lies on them, that identifying the victim will jeopardize the physical wellbeing of such person. The grounds for such refusal to disclose must be made public.

Events: Police must inform the public immediately about any incident of which they are aware to be currently occurring in the community in which members of the public may reasonably be expected to be injured, such as a hostage-taking incident or a shootout in a shopping mall.

1700

In closing, I would like to just stress to the committee that I think we have as much sympathy for victims as lawyers or judges or policemen. We have lived and worked with victims all our lives, and we defer to no one in our concerns for victims or indeed in our admiration for the police.

I would like now to turn this over to Ian Urquhart, the managing editor of the Toronto Star.

Mr Urquhart: Thank you, Sandy. Let me first state that I appreciate the difficult job police have to do, and I am not here to make their job more difficult, but I am here to argue that the police ought not to be charged with the task of being censors, along with all their other duties.

Since the police themselves are part of the story, they are not well placed to serve as censors. A couple of recent stories involving the Metropolitan Toronto Police Force serve to highlight this point. First, there is the case involving Police Officer Junger, who was a morality officer in the Metro Toronto force. He was running an escort service on the side. We believe, and I am sure you will, that it was in the public interest to make this story public, but the police went to extraordinary lengths to keep it private, and they let Mr Junger quietly resign rather than

publicize this case. Only press diligence brought the case to light, and now it is the subject of a public inquiry as a result.

The second case I would like to mention is the Neal case, the recent shooting of a black youth. I do not think there is any question it was in the public interest that both the victim and the accused in this case be made public, but I would ask you to ask yourselves if it were up to the police to decide whether the names of the victim and the accused should be made public whether they would have in this case. I think it is a legitimate question that we have posed.

Those are just some recent cases. In our background document, if you look at page 8, we run through a whole list of inquiries that have been called into the practices of various police forces across the country as a result solely of press diligence. The Morand commission into the practices of the Metro Toronto Police Force, the Grant commission inquiry into the conduct of the OPP, the MacDonald inquiry into the activities of the RCMP, the inquiry into the Niagara Police Force and the judicial inquiry into the Donald Marshall conviction all began as a result of press diligence, not because the police themselves wanted these issues made public.

Accountability, gentlemen, depends upon truthful information being candidly given. What we are asking is that you require the police to do that. Thank you.

Now on to John Downing, editor of the Toronto Sun.

Mr Downing: In June 1958 the police chief of Metro Toronto was incurably ill with cancer. On a morning in June he called a reporter at the Toronto Star and he called another reporter at the Toronto Telegram, and he told them to stay around, there was going to be a major development that day. He went out to High Park and he killed himself with his service revolver. I cannot think of an anecdote that better describes a love-hate relationship between the Metro Toronto Police and the media of Metro Toronto than that tragedy in the life of that chief. He wanted his death to be reported fully and accurately and he chose two reporters whom he knew quite well to report it.

Peel, the founder of the police system, had a quote, that "the police is the public and the public is the police." I sometimes think you could substitute the word "press" there for "the public" because the press and the public are intertwined and often the police and the press are intertwined. Now, that is healthy and that is often not healthy.

Obviously, from the events of the last several weeks and the war of words that has been resounding around Metropolitan Toronto, the policemen in Toronto have a right to be both annoyed and happy about some of the press coverage. We do not want it to be left up to the individual constable on the beat just what information he is going to give us. We do not want it to be left up perhaps to the OPP constable in Marmora or Chesley or Mount Forest or wherever to decide whether he is going to give us less information on the routine occurrence than we are going to get in Metropolitan Toronto.

As June Rowlands stated earlier, there is a major occurrence sheet given out three times a day in which details are there. Sometimes the details are not there. Sometimes we will not get even routine information about a case. Sometimes we will get more information than we know what to do with; so much information, as a matter of fact, that we have to make decisions about what we are going to publish and what we are also not going to publish, because we are subject to laws other than the Police Act; we also can be found in contempt of court. So we want a general system throughout Ontario where what is major police news, what is a major activity, is not left to the discretion

of a policeman who, because he does not know the reporter or because he hates the reporter or he hates the newspaper or he hates the television or radio station, he makes the decision about being censored. We do not want that to happen.

Mr Grossmith: The police in smaller communities do not see their job as providing information to the media and to some extent that is understandable. They do not have the same sort of resources that some of the larger communities have. As a result, activities requiring police to make subjective judgements as to what information they provide to the media pose some very severe problems in small communities.

I sense that police would be more comfortable with specific directions. This has become increasingly more apparent because of the uncertainty resulting from certain interpretations that have been made of Bill 49. There is genuine concern among policemen in the small communities that they may be liable to court action in this regard and although those concerns may not be well-founded, they still exist.

I think the public has an important stake in this issue too. People generally want to know that all citizens are being treated equally and whether there are any particular dangers in their communities they should be aware of. In small towns, rumour mills can be particularly virulent. Reputations of innocent people can and have been severely damaged because of the failure to make public basic information.

I think the requirements of our society should be determined by legislative bodies such as yourselves and it should not be left to the individual on the beat or a staff sergeant to determine what the public should know, because I think that is a far more important issue.

The Chair: Thank you. We have about six minutes per caucus for questions or comments. First, for the Liberals, we have Mr McClelland, Mr Cooke and Mr Smith, in that order.

Mr Philip: I thought I was on the list.

Mr D. R. Cooke: You are not a Liberal.

Mr D. W. Smith: Have you changed your stripes yet?

Mr McClelland: In light of the limitations of time, I will try to consolidate two basic questions and ask any one of the gentlemen before us who might wish to respond. Two of the questions, I think, are rather esoteric in nature, but they actually boil down to some pretty basic nuts and bolts in terms of trying to formulate, if you will, in language the duty or the requirement of police forces to provide information to the media.

One of the things obviously, one of the questions that comes to mind—I will perhaps show where I am coming from on this—is what I believe to be the misapplication of the principal of presumption of innocence. A number of people are going to say that the accused person ought not necessarily to have his name thrown around the paper because of the presumption of innocence. I believe that is misapplied in that it is a very specific rule of evidence that is too often applied inappropriately with respect to the release of information to the public.

1710

Part and parcel of that, I guess, in kind would be the release of victims' names, and in that I do have a concern, information with respect to victims. I am wondering if there is some suggestion that you might have with respect to the appropriateness of people being advised in the first instance of, say, a loved one or a friend, a close family friend or whomever, being hurt, rather

than hearing of it in a private manner. I do not want to put them in any rank order, but those two might mesh together.

The one that is of perhaps greatest concern if we came back to embodying the responsibility of police officers or police forces to release information—I can hear the defence being raised that it would have a negative impact on the conduct of investigations and would impede the ability of police officers to ably conduct investigations of certain matters. Expecting that those arguments may be raised against your submission, I would be interested in hearing your comments in response to that.

Mr Baird: With reference to investigations being impeded, I think all of us are former police reporters and editors. When I say police reporter, that does not mean we had to report to the police once a week. All of us have a background in covering police. I cannot recall an investigation that was impeded. I am sure there are, but I think that often is a rationalization for the non-disclosure of information. John Downing, would you like to speak about victims?

Mr Downing: In this background paper we have given you, we say that in the first 13 homicides in Metropolitan Toronto this year, the police came to the media for help or assistance in six of the cases. I do not want to go on at length about Crime Stoppers. Crime Stoppers obviously is rather a famous example of something that would collapse if a system of naming the accused only in some cases and naming the victims in no cases at all was allowed to happen. How are you going to start reconstructing crimes?

We believe, as a result of conversations with Metro policemen at all ranks and with policemen in other jurisdictions, that reporting of crimes is often responsible for the solving of crimes and the laying of additional charges when, as a result of a story in the media about a specific crime, others, senior citizens, come forward and say, "Hey, that happened to me," or "I was taken in an aluminium siding fraud."

Mr McClelland: There are particular exceptions, as you know, on the conduct of trials. For example, the one that comes to mind most readily is in a rape trial where if the victim says, "I do not want my name released," it is not released. If there is nothing there, then it becomes a discretionary element of the individual conducting the trial.

Can you think offhand of some specific examples where it would be appropriate to limit the release of information, given the presumption that we have a positive obligation on police forces, which I think is worthy of consideration, that they ought to release information "but for"? Can you help me with some of those "but fors"? I think they would be few and far between, but are there some that come readily to your mind?

Mr Urquhart: In our brief we give an example where it might put the victim at personal risk. We would be very understanding in that circumstance certainly. Look, we do not routinely publish the names of victims. We publish the names of victims where it is very relevant to the case, and I gave you one good example from the past couple of weeks, in the Marlon Neal case, or in the case of a prominent person, certainly. If the mayor is mugged on the streets of Toronto, I think the public ought to know, but in routine cases we do not publish the name of the victim.

I want to say one other thing about that. In the process, we may have depersonalized crime to a great extent. There is a fascinating debate going on in the United States about the crime of rape right now, because you had a case of a woman who was a victim and her name was kept out of the press down there

through the trial and all that. Then she decided, after agonizing, to go to the press and tell her story to try to personalize the case so that the newspaper, in this case the Des Moines Register, could write much more vividly about the horror she went through and get across the horror of the crime in a much stronger way than you can when you have no name.

It is not that we are trying to make life difficult for victims—that is certainly not our intent—but at times you need the victims to tell their own stories in their own words to get across the message, which I think the public needs to hear, about the horror of the crime.

Mr Downing: I think the committee should separate out sex crimes too, because before the designation by court that the victim's name should not be mentioned, newspapers in Canada do not mention the name. Also, I will give you another instance where perhaps we could, and that is incest. We are very sensitive in those areas.

Mr Baird: You would be surprised at the number of victims not only willing but eager to tell their stories. It is cathartic or they want to inform others.

The Chair: We have used up more than the caucus time so I will go to the other caucus. If we have time, we will come back to it. Will you be very brief, Mr Cooke?

Mr D. R. Cooke: Just briefly, I have a couple of points. I think the last point was well taken. We had an instance in our area, the Karen Marciano situation, where she in fact got her story across much better by indicating who she was.

I notice in your definition of victims you talk about only a situation where identifying a victim will jeopardize the physical wellbeing of such a person. You are not including possible psychological jeopardization. I wonder if you would like to comment on that.

Second, your brief is a good brief, and I contrast it with an earlier brief to the same point from the CBC which seemed to be much more strident to me. I wonder if you would address the following facts. In Canada, survey after survey has shown that our citizens think they live in a much more crime-ridden society than they do. If you were to take people randomly and place them in a courtroom to listen to a trial situation, they would tend to sentence much more lightly than if you took those same random people and had them read newspapers to determine what was going on.

I understand some of the problems you are facing in getting information, but I am just wondering—

The Chair: Mr Cooke, are you setting a standard for brief questions?

Mr D. R. Cooke: I am just wondering if you can address the balance that we need to find there, in view of the fact that we face that other concern as well. Crime is a large part of the news unfortunately.

Mr Baird: I think some of it has to do with an overexposure to Buffalo television.

Mr Polsinelli: Cheektowaga.

Mr Baird: That is it. Particularly old folks seem to be impressed by the amount of crime that is rife on the Buffalo channels. I think they extrapolate their own community from what they hear. They do not make any very good distinctions.

Mr Downing: The homicide rate in Metro Toronto rated with other cities in North America is a fact I think I last read in

either the Toronto Star or the Globe and Mail two weeks ago. The media, for example, tried to put crime statistics into perspective in that the number of assaults on the Toronto Transit Commission compared to 450 million riders a year is remarkably small. We do try to give the other side.

Mr Philip: Your brief does not ask for quite as much as the CBC's does. They have actually asked to be provided with information on those being investigated by the police in certain instances. Are there certain instances where the length of time that an investigation is taking would make it necessary in the public interest for at least some kind of report, because rumours, innuendoes, stories do circulate?

I am thinking of the example of the five years that members of our community have been waiting for the results of the investigation into the Air-India crash, where different people have suggested that other people may be responsible. There is a lot of information out there circulating around, none of which seems to be substantiated, and it is creating certain dissension in the community. Are there instances where investigations should be reported on, and how do you deal with that problem?

1720

Mr Downing: We do report on them from time to time. Regarding Air-India, I think at least three times I have seen very major analysis of the various theories, the material and who has been arrested and not. We are subject to a very rigorous attack by the courts whenever we start naming people who have not been accused by the police. We tend to be very circumspect in those stories. Under Canadian law—and I think it is a good thing—we have no way of saying that we believe that so-and-so, 47, living on Yonge Street is responsible for the Air-India bombing unless there has been a charge.

Mr Philip: The Canadian Civil Liberties Association has suggested that there should be an independent audit of investigations, not that it would be done with every investigation obviously, but in certain circumstances it would be helpful. Would it be your view that such an independent audit would be helpful, since Mr Urquhart mentioned certain examples where perhaps if there had been an independent audit years ago, certain investigations might have been redone?

Mr Urquhart: I really do not think that is in our realm to answer, but I will try. I think the Canadian way in these things is to appoint a public inquiry. I suppose that might have been called into question in recent weeks by a court ruling, but none the less that has been our usual method and maybe there is a public inquiry required in something like the Air-India case. We are limiting ourselves very specifically to three requests here. We are not asking that the police be required to inform the public of investigations ongoing.

Mr Philip: If a person has a human rights complaint against a public servant, he can go to the human rights commission and the commission can, on its own initiative, either examine any systemic problem independently or examine independently with its own investigator the individual complaint.

The same holds true of the Ombudsman of Ontario. For many problems that are of a lesser nature perhaps than what would be complaints against the police, do any of you have any views on whether you feel that we have created two different systems of complaints procedure, one in which the citizen has more rights, namely, under the human rights commission and under the Ombudsman, than a complaint against any police

force? Does that make sense? Is it a double standard? It might make for a good editorial; that is what it is.

Mr Downing: I was just thinking maybe you would like to write it.

Mr Urquhart: Yes, I suppose it might lead to a double standard, but I really do not think we are the best people to be putting that question to right now.

Mr Philip: One last question. The reply of the minister probably would be that you have the right to the freedom-of-information act and if you want to get information then you can go that route. I wonder if any one of you would like to share with us your experiences in trying to get information under that act. How long does it take? Do you get the information? Has it been a satisfactory route for you to obtain information which you feel the public has the right to know?

Mr Urquhart: The freedom-of-information act is part of the problem because it has been interpreted in some quarters, notably the Metropolitan Toronto Police Force, as prohibiting the release of information rather than freeing it up. So the Metro Toronto force, which up until now has quite regularly released names of accused persons and victims, are now telling us that as of 1 January 1991 they will not be able to under their interpretation of this act because it would be a violation of the privacy aspects of the act.

Mr Baird: There is another aspect. We deal every day with news and there is nothing really contemporaneous about the freedom of information.

The Chair: Thank you, Mr Philip. Your time is up.

Mr Philip: I am pleased I asked the question.

Mr Brandt: The resources available to newspapers as well as to police forces vary rather dramatically across the province, either in very large communities or very small communities obviously. It was mentioned earlier, I believe, that here in Toronto there is a release of information three times a day or an information sheet.

I wonder if we could, most important from Cobourg at the moment, get some indication of what happens in your community, where you indicated that there are some problems in getting information. I would like some elaboration on what happens in other parts of the province, because what you are looking at is some method that we might be able to arrive at where we could fine-tune the system to make sure that there is fair, balanced and equitable release of information. Then there are no surprises because a personality who is in the position of chief and who may be restrictive in a particular geographical location could handle things entirely differently than someone else somewhere else. I wonder if you could just give us an idea of what is going on now. That goes for both the large and small papers, of course.

Mr Grossmith: Thank you for the question, Mr Brandt. I have covered police forces or been involved in papers in a variety of communities throughout Ontario, mostly of the smaller size, and it certainly does differ from community to community. It is very much a question of the personality of the chief or the person who is responsible for providing the information.

We also have some very substantial problems with the Ontario Provincial Police unfortunately. Some of those are of the very nature of the OPP, but some are very directly a result of the fact that they do not see it as being important to provide infor-

mation for us. Quite often, officers go off duty without filing reports and the situation is left in abeyance for 24 hours or even more. It is very difficult to try and provide any kind of comprehensive reporting on this kind of situation, because there is just nothing that compels the police to provide us with the information. It is a very substantial problem when you get into the smaller communities where it is left up to the individuals and maybe where there is not the same sort of focus that you find in the larger communities.

Mr Downing: The newspaper association, the CDNPA, had a number of editors in to discuss this bill and we found that across the province, it did not matter whether you were a big city police reporter or a weekly reporter trying to do everything, the quality of information you got varied widely.

Generally, we would take the existing situation of the Metropolitan Toronto Police. The amount of information they release is generally pretty good for us and we would accept that. It is just that they have felt it necessary to change as a result and they have indicated to us that they feel they can no longer release the amount of information. But our reporters from Toronto, when they go outside, phoning or in person, find that the information they get varies from little to zip.

Mr Brandt: One of the comments addressed to me quite frequently by policemen on the beat and by police chiefs is that they are getting buried in paper, making out reports, and they are getting less time to actually fight crime and be active in doing what they were hired to do in the first instance because this is becoming a very burdensome part of their job.

It is not just because of what they have to provide by way of information to the media, but generally speaking, there is much more in the way of paperwork that is required today than there was 10 or 20 years ago. I guess that is a trend that not only impacts on policing but also on other walks of life.

The only observation I want to make is that we have to find some balance in that. I do not know how many times a day, for example, it would be realistic to release information in Cobourg as opposed to Toronto—maybe once a day or whatever might be a more realistic way of doing it there. It is a problem, no question, in terms of what the police officers have to do in their cruisers to provide the information that is necessary in today's society. No question, just an observation.

The Chair: Thank you very much. I want to thank the Canadian Daily Newspaper Publishers Association for coming before us and presenting us with a very detailed brief and some very thoughtful comments which will be very useful to the committee, I am sure. On behalf of the members of the committee, thank you.

1730

MAYOR'S COMMITTEE ON COMMUNITY AND RACE RELATIONS

The Chair: Our next group will be from the Mayor's Committee on Community and Race Relations for the city of Toronto. Would that delegation please come forward.

Mr Perry: The mayor was at a conference in Quebec and he is on his way here. I apologize for him, but he is not here. He will be here in the next five minutes. We would ask your indulgence.

The Chair: Did you want to proceed or would you prefer to wait for him?

Mr Perry: I am with that delegation but I cannot speak for the group. The mayor wishes to address you personally. As I say, he is between city hall and here. I would ask for your brief indulgence.

The Chair: I would suggest to the committee members before they leave the room that we may want to deal with our subcommittee report at this time.

Mr McClelland: I would suggest a 10-minute recess, Mr Chairman.

The committee recessed at 1730.

1737

The Chair: We are allowing about 30 minutes per presentation, including questions, so please proceed.

Mayor Eggleton: I will be much shorter than that. I am pleased to be able to come here today with my colleagues from the Toronto Mayor's Committee on Community and Race Relations: Millie Feldman, Trevor Hitner, Lloyd Perry, Janice Dembo, who is the executive director of the mayor's committee, Peter Maloney and Hugh Morris. We are here to present the committee's views on the important amendments being proposed for Bill 107, the Police Services Act.

Indeed the urgency of these matters you are considering cannot be overemphasized. I regret to say it, but we are living in a period of great tension between our city's black community and our police force. Much of this tension was set off by the reaction to the recent shooting of Marlon Neal, but more than anything else, the Marlon Neal incident has served to reveal just how vulnerable a large number of black Torontonians feel in matters of law enforcement; how many feel that their very colour singles them out for unfair treatment by police officers.

This feeling became abundantly clear to me and members of our committee during a public meeting just last Wednesday in preparation for today's presentation, in which we heard more than 20 deputants from a wide spectrum of the black community. I can say without reservation that that meeting was the most dramatic I have ever attended—certainly some very strongly felt views, very passionately given—in the 20 years that I have been in public life in this city.

To hear mothers and fathers, not unlike you and I, Mr Chairman, recount their stories and express their fears of their children meeting with police officers of course left us deeply concerned. These were not criminals. They are not marginal members of our society. They were middle-class, working-class, hard-working, tax-paying, conscientious citizens, with a profound conviction that they and their families could not receive equal treatment from a police force sworn to serve and protect them.

On the other hand, we have a police force whose members are also feeling increasingly vulnerable, who feel under siege by the media and politicians, who have a vitally important job to do and who, by and large, discharge their obligations admirably and often far exceed the call of duty. This group, I should point out, is not well served by so-called defenders who would seek to make the deep concern over this issue a litmus test for loyalty to the force.

In fact, the polarization of this issue must stop. I strongly support the legitimate needs of the black community. I also strongly support the legitimate needs of our Metro police force. Those are not mutually exclusive aims and objectives. Indeed, it is my firm belief that those who are truly loyal to the Metro police would want to do their utmost to separate police officers

from the vagaries of politics and controversy, and the surest way to accomplish that is to give them the clear directions, the structures and the regulations to deal with issues of race relations and the use of weapons. The clearer their guidelines and parameters, the less room there will be for ambiguity or distortion.

That is what makes your deliberations so vitally important, for it has become clear to me, as mayor, and to our entire race relations committee that no single step will be more valuable in restoring mutual trust between the black and other visible minority communities and our police force than Bill 107, the amendment of the Police Act, and its ability to fairly and effectively address these clear and legitimate concerns.

Our race relations committee has specific and, we feel, important recommendations regarding the amendments to the Police Act. For the sake of time, I will not outline the history of our interest as a committee in this keen issue; suffice to say that it is long-standing and amply documented in our written submission, which we are leaving with you. So, in fact, is the chronology of the issue of policing and race relations, and we have been deeply impressed, I must say, by the work of the Race Relations and Policing Task Force which was chaired by Clare Lewis, and we applaud the sincerity of the government in approaching many much-needed reforms.

However, in several key areas, the need for action to catch up to sentiment is clear. A case in point is the issue of monitoring. Indeed, the government's commitment would be far more believable if it had not entirely rejected the creation of an independent, civilian Ontario race relations and policing review board to oversee the implementation of the task force recommendations and specifically advise, research, inform, advocate and, most important, monitor police employment equity programs.

We strongly endorse such a concept. Unfortunately, the government response of creating an in-house monitoring agency within the Ministry of the Solicitor General will not end feelings of suspicion and distrust. As an active and interested party in such matters, the Ministry of the Solicitor General cannot be expected also to play the dispassionate role of monitoring its own performance. Such a setup is doomed to fail any test of credibility. This vitally important monitoring role, closely linked with a public complaints process, must not only be just, it must be seen to be just, and it must have the teeth to create results.

We also support visible minority employment and equity programs and goals in place, and regulations to reasonably accommodate the wearing of religious symbols and dress by Sikhs and perhaps others, both in uniformed and civilian functions. We believe that employment equity is one practical, legislative means for the government to accomplish one of the main principles of the new act, and that is "to ensure that police forces are representative of the communities they serve." We also feel it should encompass not just police forces, but also police services boards and police commissions.

We recognize that many strides have been taken by the Metro force, for example, and we applaud those efforts, but we also recognize that more are needed and that forces throughout the province must also make efforts. For that reason, we support the government's response of requiring police forces to adopt mandatory employment equity programs.

However, we also believe that the act should be amended to set specific and mandatory employment equity goals and timetables. We also recommend that an effective central recruiting agency be established. The current lack of such an agency

ensures that change will come slowly, if it comes at all, in many parts of the province.

But alongside major employment equity efforts must be effective race relations training. The Solicitor General, upon recommendation from the task force, has already called for a review of all current race relations training, and the need for province-wide standards and regulations for ongoing race relations training at all levels is contained in the new act.

We believe that the act can and should go further. We believe that training should be ongoing and frequent, and on a continuing education basis, and that participation be mandatory. Further, race relations training should be fully integrated with all other aspects of police training.

We also believe that the Solicitor General's insistence on race relations training for all senior command and civilian and police authorities as well as police officers should be given statutory status in the act.

Finally, the race relations policing review board should monitor and evaluate this training program and its effectiveness. Indeed, this independent agency could also provide race relations expertise and assistance to police forces on a regular basis.

In cases where police officials or officers display racially prejudiced behaviour, we agree with the Solicitor General that such behaviour should be dealt with decisively. Indeed, we would recommend that the Police Act regulations be amended to provide a definition of racially prejudiced behaviour and to classify such behaviour as a disciplinary offence.

We urge this committee to address the broad issue of community policing issues raised by the task force and regrettably not addressed in Bill 107, other than in a very cursory and general way. We acknowledge the Solicitor General's announcement last fall regarding the government's commitment to innovative community policing strategies. We believe that such strategies as local community consultation committees, outreach programs, race and ethnic relations units, increased foot patrols, accessible police stations and youth activities are essential to maintaining healthy community-police relations. Certainly the act could address some of these issues.

It does address, I am pleased to say, the public complaints issues raised by the mayor's committee during the early hearings on Bill 4. Our written submission goes into some detail on this. I urge you to note not just the recommendations which have been adopted in Bill 107, but also a number which we still commend to you for action.

Clearly the issues of sensitivity, representativeness and active community involvement are at the very heart of any reforms regarding policing and race relations, but we must be honest and acknowledge that they are just one part of the remedies a new Police Act must provide. The issue of the use of force must also be clearly and decisively addressed.

The Toronto Mayor's Committee on Community and Race Relations firmly believes that current regulations regarding the drawing and firing of weapons by police are not adequate. Regarding the drawing or unholstering of weapons, we recommend that police officers should be compelled to file a report any time a gun is drawn. I believe this is done in some cities. We believe the requirement should be contained within the legislation itself, and we believe that the act should require that the content of such a report include all particulars, including time, place, circumstance, action causing the unholstering, action taken with the weapon and the race of the parties involved.

With respect to the actual firing of a weapon by a police officer, we support the task force recommendations that would restrict use of deadly force to situations in which the person

fleeing poses a threat of death or serious bodily harm to police officers or to others.

Moreover, we believe that the investigation of incidents involving the use of deadly force should be a matter of course. At least two members of the special investigations unit examining such incidents should be trained investigators who have never been police officers. In no case should any member of the special investigations unit be a former member of the force whose actions are the subject of investigation.

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Finally, the special investigations unit should not be a unit within the Ministry of the Solicitor General. It should operate as a unit of the Ministry of the Attorney General or, as an alternative, under the police complaints jurisdiction. It should be vested through the new act with exclusive investigative authority in any circumstances, and it should be the unit charged with receiving the reports related to the drawing of weapons.

From the ongoing issues of racial sensitivity and inclusion to the more dramatic and explosive ones regarding the use of firearms, reform is sorely needed in our Police Act. Your hearings are timely and it is my sincere hope that your actions are judicious and swift.

As mayor of Toronto, I say to you that we, as a city literally of minorities whose wellbeing depends on tolerance and mutual respect, cannot afford a continuation of current tensions and polarization. A threat or a perceived threat to the safety and wellbeing of one community indeed is a threat to all of us.

This committee has the power to address the legitimate concerns of an important segment of our community. It has the opportunity to enable our valuable police force to perform its duties without fear of second-guessing or without a shadow of a doubt cast over its efforts. On behalf of the Toronto Mayor's Committee on Community and Race Relations, on behalf of the people of Toronto, I urge you to seize that opportunity. As Mr Lewis said in his report, "If Ontario police forces are to enjoy public confidence, they must reflect and understand the communities they serve and be so perceived."

Mr Polsinelli: Thank you for coming before the committee today. Obviously your committee has done a considerable amount of work, as is evident in the presentation that we have before us.

It is almost a pleasure, I have got to tell you, dealing with this legislation, because the comments that we are getting from groups are not, "Let's not deal with it; we disagree with the principles of it," but more along the lines of people coming to us and saying: "This is good legislation. Here are some suggestions as to how we can make it better."

I think that is a very positive attitude. When you are looking at legislation that creates a special investigations unit that is going to monitor and investigate serious occurrences throughout the province and that special investigations unit is going to be made up of non-police officers, I think that is an accomplishment. That is something that people have been asking for for a long time. When we look at legislation that puts in mandatory employment equity programs, I think that is something the community has been asking for for a long time, and so on. It extends the public complaints process throughout the province of Ontario, a process that has been very successful in the city of Toronto. So generally, we are all approaching this with a very positive attitude and we are saying, "How can we make this legislation better?"

I have got two specific questions of you. One is that you suggested the special investigations unit should not be under the Ministry of the Solicitor General but rather the Attorney General or, I believe it was, the public complaints commissioner.

The purpose of the special investigations unit, as I understand it, is to investigate serious occurrences. Once it has completed its investigation, it reports to the Attorney General in terms of deciding whether or not a criminal charge should be laid. How is that different than the whole unit working under the Ministry of the Attorney General? Is that not really the same thing? Once the special investigations unit has completed its investigation, it then sits down with the crown attorneys, who are employees of the Ministry of the Attorney General, to decide whether or not to lay criminal charges. It does not confer with the Solicitor General's office to determine whether charges should be laid. That is point 1.

Point 2—and I want to finish my question so you can just respond to it and then the chairman could move on to somebody else—in terms of the mandatory employment equity programs, you indicated they should have goals and timetables. My understanding is that the Solicitor General's office would be required to approve the mandatory employment equity program plans and that the plans themselves will have the goals and the timetables. So the mandatory employment equity programs will have goals and timetables. While it does not say it in the legislation, an integral part of the the plans themselves will be the goals and the timetables. I wonder whether or not that sort of satisfies your concern with respect to them.

Mayor Eggleton: I am going to ask some other members of the committee to comment. I think in terms of the role of the Solicitor General in all of this, while we applaud so much of what is being done here, we also have to bear in mind that he is the chief policing official in the province. As I think was so rightly put by the Canadian Human Rights Commission when it appeared before Mr Lewis's task force, the worst enemy of effective policing is the absence of public confidence. So we are talking about public confidence here.

So many people from the various minority communities have said to us that a very key part of building this confidence is to have the feeling of being a step removed from the regular day-to-day policing function and that there be, in fact, that kind of civilian and independent review. I think that is key to a lot of these recommendations.

I think with respect to your second point about the goals and timetables, there is quite a number of the 57 recommendations of the task force which do not find their way into the legislation per se but which we dealt with under the regulations, which does not quite put them under the same public scrutiny as it does in the act. I think the preference is to have as much in the act to carry out the intent of the task force as is possible.

I will ask Peter Maloney if he can supplement any of that.

Mr Maloney: On the first point, you have recognized the nature of that independence by placing the public complaints process under the administration of the Attorney General within this act. It struck us that there should be a consistency in administration of those kinds of investigations of police misconduct of one sort or another, so we have made a recommendation in the brief that you have before you that, consistently, all of those bodies that monitor or investigate police misconduct or possible misconduct should be placed outside the Ministry of the Solicitor General, either by the creation of an independent

body such as recommended by the task force or, in the case of the special investigations unit, with the Attorney General.

Mr Polsinelli: Mr Maloney, just a very quick supplementary. You are indicating that the special investigations unit should be an independent body. My understanding is that it is an extremely independent body, that it will have a civilian director who was never a police officer and the only linkage that the special investigations unit will have with any possible police force throughout the province is that they both report through the Police Services Act to the Solicitor General, who is also a civilian.

Mr Maloney: The act, specifically at section 112, says that the special investigations unit is a unit "of the Ministry of the Solicitor General."

Mr Polsinelli: Yes

Mr Maloney: As such, administratively, it is not sufficiently separated from the chief police officer of the province.

Mr D. R. Cooke: This presentation was very good and I intend to read your written briefs very thoroughly. You made reference to the recent shooting of a citizen in Toronto. I note that the Ontario Provincial Police recently laid a charge of attempted murder against one of the Metro police officers with regard to that and there was a response by the president of the Metropolitan Toronto Police Association, which alleged that the OPP was motivated by politics in laying that charge. I cannot think of a more devastating accusation to make against a police officer or a police force in a democracy than that they have been motivated by politics.

The Chair: I wonder if I can just interject here for a minute and remind the members of the committee and any of the presenters that we do have a provision under the rules which indicates that I should call to order anyone who raises a matter that is sub judice. We do have a case which is before the courts with a very serious—

Mr D. R. Cooke: I understand that, Mr Chairman. There has been a suggestion made by a witness this afternoon—or perhaps it was made by Mr Kormos—to the effect, that a black youth was shot by a police officer. I think that is going further than I am. I am not going to ask the witnesses to get into any evidence whatsoever. I am simply wishing to ask them if they have any knowledge of political pressure or if they brought any political pressure. That simply has to do with the accusation that is now already in the public and has absolutely nothing to do with the evidence that might be presented at some time in a trial. In view of the fact that our provincial police force has been slandered, I would like to ask questions concerning that.

1800

The Chair: I am going to exercise my discretion as Chair and rule that area of question out of order, because we do have an accused with a very serious charge against him and I think we have to respect that. I am going to rule it out of order.

Mr D. R. Cooke: Perhaps you could be careful then when the subject comes up again.

The Chair: I will endeavour to use my discretion as best I can, hopefully with the advice of committee members.

Mr D. R. Cooke: That was my question.

Mr Philip: Thank you for a very interesting brief, Mayor Eggleton and members of your committee.

Basically, as I heard you speak, you had three major concerns with the bill: first, the decentralization—one might even be tempted to call it the municipal option in the bill—which would really arrive at standards concerning employment equity, etc, to be set locally and therefore no consistency throughout the province; second, you have questioned the problem of the independence or the perceived independence of the investigation system, and last, you have been concerned that the major decisions that this bill will bring about are done by regulation and therefore are not open for public input from people like yourself who are in tune with your constituents.

Would you agree that those are the three major concerns that you have against the bill, and would you agree then that it is hardly an endorsement of this bill in its present form?

Mayor Eggleton: I would not be here saying what I am saying if I was endorsing the bill in its present form. But let me make it very clear, as I did at the outset, that I applaud the minister's efforts to bring about the implementation of the task force report. I think the bill goes a long way towards meeting those recommendations, but obviously I do not think it goes far enough and I agree with the areas that you have cited as areas where it does not go far enough. I think they are a very important part of building confidence in our community and confidence all around and the kind of trust that we must have between all parts of our community and our police force to be able to function properly as a city and as a province.

Mr Philip: You talked about a timetable for the employment equity. Do you consider that essential if we are going to have any confidence across the province, and any consistency?

Mayor Eggleton: Yes. We have found that we have had to do that at city hall. We started off with good faith kinds of measures, but we have found that we have to in fact have goals and timetables in order to be able to push along with meeting employment equity objectives. We do not find that we have to sacrifice any of our requirements, any of our standards. It is a matter of more aggressively trying to bring into the workforce those people who could help to better reflect the population as it is today. That is what we are doing at city hall. Our Metro police have also come a substantial way in trying to meet such goals and objectives, but I think we have to have the goals and timetables. I agree with what the task force report said in terms of its objective of 1996.

Mr Philip: You have been what I would call critical of police training in your brief, not so much in your comments as in the main body of your brief. Is it your feeling that there is presently an inadequacy in the training of police, particularly in matters of race relations training?

Mayor Eggleton: Yes, we agree and we are reflecting also the concerns raised by the task force in the report. It was so concerned about training relevant to race relations that it suggested a moratorium on what was happening now because it felt that it was harmful, so there needs to be an overhaul of that training. It needs to be properly integrated with all other training, not separated out, race relations here and everything else in its own path, but it needs to be integrated into all aspects of training and it needs to be monitored. The programs need to be evaluated, they need to be monitored and that is where we feel the Ontario race relations policing board would in fact go a long way towards doing that and doing it in an independent way. In fact, the members of that board could be quite helpful in the establishment and evaluation of the training program. We feel quite strongly about that.

Mr Philip: Does it cause you some discomfort that this area, namely police training, will be done entirely behind closed doors through the regulatory process and will not be open for input from groups such as yours, from the police and from members of the various communities?

Mayor Eggleton: Absolutely.

Mr Philip: Thank you.

The Chair: Mr Kormos, we have time for one short question.

Mr Kormos: It is in the eyes of the beholder, but you seem a little bit praising of the prospect of appointments by the provincial government to police commissions, and that is as compared to elected people from the municipality. You praise them, among other things, because they can be used to place, let's say, visible minorities on a commission. One would hope that visible minorities were being elected to municipal and regional positions in view of the fact that they would reflect part of the makeup of that community.

But there is absolutely nothing in this legislation to indicate that the appointment power is going to be used for that purpose. Indeed, the suggestion has been made many times by many people that it is political hacks who get appointed to police commissions. There is no real concern about expertise. Indeed, it is a matter of who you know, not what you know, and there seems to be no real function of political appointments on a commission. They certainly have no accountability to an electorate.

Mr Polsinelli: Mr Chairman, on a point of order: I take exception to what Mr Kormos is saying. I do not think the provincial appointees on the Metro commission are political hacks.

The Chair: That is not a point of order.

Mr Kormos: We could talk about any number of police forces across the province where there are political hacks.

The Chair: Mr Polsinelli, you are out of order. Mr Kormos, you did have time for one short question. Would you please put the question?

Mr Kormos: In view of that, would you suggest amendments to the appointment process or are you happy with the appointment process as it exists under this legislation now?

Mayor Eggleton: We believe that municipal police commissions should better reflect the population. Let me ask my colleagues to also jump in on this.

Mr Hitner: Employment equity is a key part of Bill 107 with respect to ensuring that our police forces reflect the diversity of the community they serve, but so too should police services boards and commissions reflect that diversity, which is precisely why we as a committee have recommended that employment equity programs be extended not only to police forces but also to police services boards and commissions.

The Chair: The time is up for this submission. I want to thank Mayor Eggleton and members of his delegation for the written brief and your very thoughtful comments. I am sure they will be taken into account by members of the committee.

SUBCOMMITTEE REPORT

The Chair: There is another item on the agenda and that is dealing with the subcommittee report on business, and I believe

Mr Polsinelli wants to raise one other matter of business as well, so I am going to ask members of the committee to refer to the report of the business subcommittee which has been distributed to you and is on your desks. I would ask you to please review that for the next minute or two, and then we will have some discussion and hopefully approval of the report.

Are there any comments on the subcommittee report? If there are no questions or comments on the subcommittee report, will somebody move a motion to approve the subcommittee report?

Mr D. R. Cooke moves approval of the subcommittee report. Is there any discussion?

Mr Kormos: Can there be some indication at the onset that there are going to be concessions made? In other words, there is going to be a need perhaps for breaks for votes, things like that, and they will be accommodated, in view of what this proposal does.

The Chair: The Chair will exercise its best discretion, with the advice of the committee members, under such circumstances. The question referred to appropriate and reasonable breaks in the committee to attend to votes in the House. That is actually a requirement that we have to comply with under the rules. If there is a vote in the House, we do have to recess the committee for purposes of the vote.

Mr Polsinelli: May I suggest that—the report, in terms of the oral presentations, when it talks about the sittings next Tuesday, Wednesday and Thursday—if we have to extend past the 6 pm or 9:30 pm time periods, that we do so if required by our schedule of witnesses, if we have not completed our witnesses. What I am saying is that we ask the House for permission to sit until 6 o'clock or later. We want permission to sit until 9:30 pm or later, depending on how our agenda flows for that particular day.

1810

The Chair: We have the authority now to make recommendations of that type. Certainly we can ask for that type of discretion.

Mr Polsinelli: I would ask that our whips and House leaders be asked for that type of discretion. If we approve the subcommittee report as is, we would not be asking for the discretion. I think the Chair should ask for that discretion.

The Chair: Is there agreement that we should have that type of discretion? I would say that it is not at the discretion of the Chair; it would be at the discretion of the committee. I would place that question to the committee and if the committee wanted to proceed, then it could do so.

Mr Polsinelli: The committee can only proceed past the scheduled sitting times if it has the approval of the House. The House has given us that approval provided that our recommendation has the approval of our respective whips and House leaders.

The Chair: I understand that and I am asking the committee now to give the clerk and myself the authority to request that.

Mr Polsinelli: I would request that you do that, Mr Chairman. If I have to amend the subcommittee report—

Mr Philip: Let me just make this comment. As Citizenship critic for our party I have been asked to be on this committee, and indeed I asked to be on this committee. At the same time,

here we have a bill that was tabled on 20 December 1989 and now we are scheduling it for times when people who are the assigned critics in the opposition parties have trouble being here.

I happen to chair the standing committee on public accounts. We have a full agenda for every Thursday morning and we are now having to meet at the same time as the standing committee on public accounts is meeting, a time when I cannot be here. I wonder if we can at least look at the Thursday mornings to enable me, as our party's critic on the subject area, to be here, since I cannot be in two places at one time. No matter how much metaphysics I have studied, I have not come up with a new metaphysics that allows me to do so.

The Chair: That is fair comment, Mr Philip, but I would say that at the last two subcommittee meetings, representatives of your party were not in attendance and that point of view was not presented to us when we unanimously adopted the report in the subcommittee. So that is fair comment and we can now discuss it on the committee. We could certainly try to accommodate members of this committee if they have other responsibilities. We are not certain that we are going to use all this time up. We are asking for authority to sit at these particular times because we anticipate sufficient demands. We do not have sufficient demands at this time, but I would certainly undertake, on behalf of the committee members, and I am sure the clerk will as well, to check with committee members before scheduling those extra times to try to avoid any duplication of committees.

Mr Philip: I appreciate that. As you know, I am on several committees and chair one that has a very heavy schedule. I am not on your subcommittee or I would have made that comment. I would just ask that Thursday mornings not be sitting times; Thursday mornings 7 June and 14 June, if at all possible. I leave that in your hands and I know that you and the subcommittee will do your best to accommodate me.

Mr D. W. Smith: If you could agree to sit later at night.

The Chair: In other words, the Thursday morning would be a last resort.

Mr Philip: I appreciate that, and having said that, I will vote for the subcommittee report, I guess.

The Chair: All those in favour of the subcommittee report? Opposed?

Motion agreed to.

The Chair: Mr Polsinelli, you indicated you had another matter of business to raise.

TIME ALLOCATION

Mr Polsinelli: Yes, I think we should revisit the allocation of time among the committee members in terms of asking questions. Sitting in this Legislature has been an interesting experience for me. One of the most interesting experiences has been the participation on committees and the opportunity to question witnesses and make comments about their comments and that kind of stuff. The allocation of time, as we have been undergoing in the past number of sittings through chairman's fiat, while fair in terms of a party point of view, is unfair in terms of an individual member's point of view.

As the Chair knows, there are five Liberal members on this committee, two Conservative members and two New Democratic Party members. With the division of time, with one

third going to each caucus, we often find that the Liberal members on this committee have one minute each or 30 seconds each or no time at all to ask questions, so I would suggest a slightly different procedure.

I am throwing forward a number of options. Number one would be that the time be allocated on a proportional basis, that the Liberal Party get 50% of the time, the Conservative Party get 25% and the New Democratic Party get 25% of the time. That is proportional with the number of members who are here. We have five members, the NDP have two, the Conservatives have two. That is option number one.

Option number two would be that when the time for questions appears, at the beginning of that time the members of the committee who wish to ask questions indicate so to the chairman and at that time the chairman allocate the time between all the members, in an even way, who want to ask questions. Just divide that time. That way each member of the committee is treated on an equal footing without regard to party affiliation.

Option number three would be—this is why I asked earlier to have the discretion to extend our sitting times—that any member of the committee who wishes to ask questions be allowed to do so, take as much time as he requires and that if we do not finish our hearings by the time we are supposed to finish, that we extend our hearings until such time as all the witnesses have been heard.

I am prepared to accept any of those three. If we require extra sitting time to listen because we have a lot of questions, or if we want it divided among the caucuses in a proportional way, I am prepared to do that too. Those are my comments.

The Chair: Just by way of comment, as chairperson of the committee, I want to say that I have not determined the equal time per caucus by fiat. There was a very brief discussion the first day of the hearings when we agreed to divide the time equally by caucus, and I was operating on what I thought was a consensus. Certainly I am in the hands of the committee and the committee can direct me to do either one of your options or anything else that may be suggested, including the status quo.

Mr Polsinelli: May I suggest, without further comment, that there was not a consensus, as I recall, in terms of dividing it by time. There was more or less of an acquiescence on the part of some members, not a consensus.

The Chair: I would accept your terminology as acquiescence, but I saw Mr Philip had his hand up.

Mr Philip: There may not be a consensus, but there certainly is a tradition and the tradition is there to protect the opposition which has the responsibility, offered equal time to the government, to criticize legislation in what can be called partisan committees. The standing committee on administration of justice or any committee dealing with legislation is a partisan committee. I have no objection to removing allocation of time along party lines in the non-partisan committees, namely, the standing committee on regulations and private bills, the standing committee on the Ombudsman and the standing committee on public accounts, which I chair, and I never look at what the person's party is on those committees.

In committees that are dealing with the Legislature, the tradition has always been to allocate time according to parties, so that each party gets a fair and equal share and has an opportunity to make its views known to the witnesses and to help the witnesses bring out their criticisms or suggestions for improving legislation.

I think to do so in any other fashion is quite irregular, I would say authoritarian but not authoritative, on the part of the government members and would only be seen, I would trust, by the public as an attempt to stifle dissenting opinion from that of the government. The government has an opportunity with all of its highly paid people, qualified people, lawyers, consultants and so forth, to present its view. The minister has an opportunity to present his views.

Mr Polsinelli: We are not talking about the government's views. We are talking about the witnesses' views.

The Chair: No interjections, please.

1820

Mr Philip: The role of the opposition is to help the witnesses bring out their views and that is why there has been a traditional allocation along party lines in those committees that are dealing with partisan legislation, where people of different parties happen not to agree with what the government is doing or dissent at least in some ways with some legislation that is being brought forward.

I am suggesting that we continue in the way we have been going. If the government wanted to have more opportunity for its backbenchers to question and to bring out their points of view, the kind of defence of this legislation that Mr Polsinelli tried to make in front of the mayor today, then the government could have allocated more time to the hearings and would not have rushed this bill through in the last few days when it had tabled it on 20 December 1989. They would have introduced it earlier, would not have left so many questions to hide behind closed doors, doing them by regulation so that people coming forward really question what it is the government is doing or is attempting to do.

All of those things could have been done by the government. It chose not to do so, and I suggest to you then that we carry on in the way we have been doing. It is the parliamentary tradition. It is the fair tradition. It is the way in which we should be conducting our business.

Mr D. R. Cooke: I am amazed Mr Philip was able to say all that with a straight face. I was the chairman of the finance committee from the time that—

Mr Philip: At least it doesn't take me three paragraphs to ask a question.

Interjections.

The Chair: Order. Mr Cooke has the floor.

Mr D. R. Cooke: I say that because of the amount of time that has been wasted by opposition members in asking questions that have nothing to do with either the task force report or the legislation. But I just want to correct what he said. As chairman of the finance committee from the time of its coming into existence until this September—I do not know what that committee does now—I always divided the time equally between those questioners who wanted to ask a question, excepting that I allowed each party to get a question on the record. In other words, I rotated to the parties' first questioner so that each party had a chance. Then the residue of time was simply divided among those members who wanted to ask a question. That worked very well in that circumstance. I do not see why that, which is close to what Mr Polsinelli said in the second of his three suggestions, could not be adopted by this committee. I think that would be very fair.

Mr Kormos: It really is a matter of whose ox is being gored, is it not, Mr Chairman?

The Chair: If you are asking the chairman a question, Mr Kormos, we really have four proposals, which includes the status quo we are operating under, and they all have a very large element of reasonableness to them. I would like us to continue the discussion in a reasonable tenor and make a reasonable decision. There are four very reasonable options before us.

Mr Kormos: That is a matter of opinion, because to reduce opposition opportunity to participate in a committee process by 50%, which is exactly what you are talking about, is incredible. One would similarly suggest then that when there is purportedly a division of time or a sharing of time, let's say when this government only permits one afternoon for debate on an important bill, that the same division take place in the House in terms of time rather than there being equal time allocated to each party to be distributed among themselves in whichever way they see fit.

It remains that Mr Philip, Mr Pouliot and I were adamant at the very first day of these committee hearings about the fact that the committee appears to have shortchanged itself in terms of the period of time it was allocating to hearing these submissions. You will know, Mr Chairman, that I had special concern at the very onset about the amount of time permitted for questioning in view of the fact that there was 30 minutes allotted to each speaker and that some speakers would use up 15 and some would use up 20 or 25. It was conceded at the onset, on consensus, that the subcommittee would make recommendations if need be, or perhaps the chairman would exercise some prerogative, to extend the amount of time for any given speaker, some speakers simply requiring more time than others.

Mr Polsinelli appears to have an agenda here that is peculiar to what has gone on in the last couple of weeks. Quite frankly, one has to doubt his sincerity and his good faith in presenting that. My impression is that there is a little bit of concern about the fact that this legislation, as more and more people participate in the hearings, is revealing itself to be far less than adequate.

The government members clearly have been scripted in the pat lines and the sort of fluff they are supposed to deliver at the committee hearings and the sort of fluffy questions they are supposed to ask participants. I say no. It is too bad, so sad, quite frankly for the government members if they have so many people on this committee. They can divvy the time up among themselves. Let me put it this way: only two of them need participate at any given point in time and then they will be on a par with the opposition parties. So they have a real problem. It is as dimwitted a proposition as I have heard in a good six months.

Mr Polsinelli: Mr Philip's conception of parliamentary procedure is based on his years here. My perception of parliamentary procedure is based on the five years that I have been here.

Mr Philip: I am sorry. My perceptions are the rules of the House.

Mr Polsinelli: It is somewhat different. I have served on a number of committees in this Legislature and each one develops its own process.

Mr Philip: Mr Chairman, on a point of order: The Conservative members are not present. They are an opposition party. In their absence, I move adjournment of the committee.

The Chair: The Conservative, Mr Runciman, indicated before the committee started that we could proceed in the absence of the Conservative Party.

Mr Philip: This matter was not on the agenda. It is only fair to the Conservative Party, which is one of the two opposition parties, that it be here for this discussion. Therefore, since they have not been told this matter would be raised, I move adjournment.

The Chair: A motion to adjourn is not debatable. There is a motion on the floor.

Mr Polsinelli: Mr Chairman, on a point of order: You will recall that when Mr Kormos was filibustering, when he occupied the time of the House, a number of times other members tried to take the floor and make motions. The Speaker always ruled those motions out of order because the person who got up on a point of order to make a motion did not legitimately have the floor to make that motion. Mr Philip is out of order in making that motion. You cannot recognize it. I have the floor.

The Chair: I rule the point of order to be appropriate. We are going to proceed with the motion that is on the floor. Are there any other persons who want to debate it?

Mr Polsinelli: I have the floor.

Mr Philip: I am sorry. What are we proceeding with?

The Chair: We are proceeding with the debate on the motion to approve the subcommittee report.

Mr Polsinelli: Let me just say this: the members of the official opposition do not want to proceed with this vote today. I do not have any problem with that. We can vote on this tomorrow.

Mr Philip: We are dealing with the subcommittee report?

The Chair: I am sorry. I said that in error. We are basically dealing with a new motion that was put on the floor by Mr Polsinelli.

Mr Philip: We do not have that motion before us. As I heard Mr Polsinelli, he had four options. That is not a motion. The Conservative Party is not present. I move adjournment.

The Chair: The motion to adjourn is not debatable. I am going to put it to a vote.

Mr Polsinelli: He does not have the floor. I have the floor.

The Chair: All those in favour of adjourning? All those opposed?

Motion negatived.

The Chair: The motion is not carried and we will continue with the proceedings.

Mr Philip: You can carry on with your own proceedings. If you want to set up a fascist government, then do it.

Mr Polsinelli: I think it is important to recognize, as I was saying earlier, that in the committees I have served on it seems that the members of the committee have sat down and have tried to develop a consensus as to how things should proceed. It has been my experience here in the past number of hearings that the member for Etobicoke-Rexdale, Ed Philip, and the member for Welland-Thorold, Peter Kormos, are not participating on that basis. They do not want to sit down and develop a consensus as to how we should proceed. Every point you try to bring up seems for them to be a partisan issue. I really take objection to that. So what I want to do is to restore a little bit of that consensual basis here, even though it is next to impossible.

We will not vote on this today. We will vote on it tomorrow. But I also want my rights as a member of this committee respected. I want an opportunity to ask questions and I want the time for that opportunity respected. What I am going to do is bring a motion before this committee tomorrow—I am giving you notice of that—that what we do is, at the time the presenters have finished their presentation, the chairman canvass the committee members to determine who wants to ask a question, that the number of committee members who have shown their intention to ask a question be put on a list, that the time available be divided among them, that they be recognized to ask questions and that nobody else be recognized to ask questions during that presentation. I am giving you, Mr Chairman, notice of that motion.

The Chair: We do have a motion on the floor now and there is no motion to adjourn and we have notice of a motion for tomorrow.

Mr Polsinelli: Which motion?

The Chair: I was assuming that your proposal originally to adopt one of the options was the motion.

Mr Polsinelli: What I tried to do is what I have done in every committee, what we have done in every committee. If a committee member is dissatisfied with a particular procedure, you bring it up for discussion and you try to resolve the issue in a consensual fashion. The member for Etobicoke-Rexdale, Mr Philip, and the member for Welland-Thorold, Mr Kormos, have not been participating. They have been ranting and raving about partisan issues. We are dealing with a very important piece of legislation, the first major amendment to the Police Act in 41 years and they want to reduce it down to a partisan political issue instead of standing in front of this committee and making valid points and arguments, talking about the merits of the legislation to try and improve it. Every little thing for them is a partisan issue.

The Chair: Mr Polsinelli, we now have your notice of motion for tomorrow. Do we have a motion to adjourn? The committee stands adjourned until 3:30 tomorrow afternoon.

The committee adjourned at 1831.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Rowlands, June, Chair

From the Canadian Daily Newspaper Publishers Association:

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Downing, John, Editor, Toronto Sun

Urquhart, Ian, Managing Editor, Toronto Star

Grossmith, James T., Editorial Director, Cobourg Daily Star

From the Mayor's Committee on Community and Race Relations, City of Toronto:

Eggleton, Arthur, Mayor

Hitner, Trevor, Vice-chairman

Maloney, Peter, Member

Perry, Lloyd, Member

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Government
Publication

J-16 1990

J-16 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Official Report of Debates (Hansard)

Tuesday 5 June 1990

Journal des débats (Hansard)

Le mardi 5 juin 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations and
Policing Task Force

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Chair: Ed Philip
Clerk: Tannis Manikel

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Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

Languages in Hansard

Hansard reports all debates in English or French as spoken by the participants. It does not translate remarks made in either language. Headings and tables of contents reflect language use.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 5 June 1990

The committee met at 1529 in room 151.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Chair: The standing committee on the administration of justice is now in session. The committee is now in its fourth day of consideration of Bill 107, the Police Services Act, and the report of the Race Relations and Policing Task Force.

RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION OF CANADA

The Chair: Our first presenters today will be from the Radio-Television News Directors Association of Canada, chaired by John Hinnen, who is the news director of CFTR, and president. If you want to please introduce the other members of your delegation. We usually allot 30 minutes per delegation. I would urge you to summarize, if need be, to leave some time for questions and answers, if you can.

Mr Hinnen: Actually, Mr Chairman, just for clarification, I am news director of CHFI radio, and I am president of the Radio-Television News Directors Association of Canada. At the moment, Stuart Robertson, who is our legal adviser from Paterson, MacDougall, is handing out some documentation for you. Also on our panel today are Howard Bernstein, who is news director of Global Television, Ontario, and Gary Ennett, who is news director of CFPL radio in London, Ontario.

Just in terms of background, the Radio-Television News Directors Association currently has 326 members across the country. Every television news director in Ontario belongs to our organization, and most radio news directors—certainly all those who work in major markets in this province. What we are going to discuss today may be a little repetitive of what you have heard so far in that it reiterates something that was said yesterday by the Canadian Daily Newspaper Publishers Association as well as some of the things you might have heard from the CBC last week.

Bill 107 presents the first opportunity, really, to define in a statute the role of the police forces, police chiefs and police officers in Ontario, but nothing in the present bill spells out any duty or role the police have to serve the public by informing it about certain basic matters as they occur. The members of the public cannot have confidence in the administration of justice and the police unless there is some type of public scrutiny.

Informing the public about what is occurring, including who is being charged and where the shootout or the hostage-taking is, is an essential part of policing itself. Telling the public that someone has been charged with the commission of an offence is not merely a matter of public recordkeeping; instead, it is the very protection from arbitrary arrest that our society demands.

Confidence in the police is derived only from the fact that you know they are working in the public interest to enforce the laws that have been democratically and constitutionally created. If, however, the police are the only ones who know what is going on, then they will always be suspected of acting in their own best interests.

One of the roles of the media is to give a sense of what is happening in the community. The members of the community will not have any sense of what crime is or what the horror of an explosion is unless a face is put on it. Pictures, sounds and stories about real incidents will go some distance in conveying the impact of a news story. The Crime Stoppers program is one where the media have assisted the police by putting a face on crime.

While it may suit the purposes of the police to give the impression that the city is a safe place, the harsh realities of the city are of real interest to many of those who live in it. If people see the results of an accident or a shooting, much is learned about how people choose to conduct themselves.

The media are often criticized for exploiting the hardship of witnesses. Well, bad journalistic judgement is lamentable and should be corrected by those who do it. However, it is obviously not a suitable solution to keep information about events in the community from the media and instead allow the police to keep the information and to present it if, how and when they choose to do so.

Broadcasters have a duty under their licences to broadcast news and information programming. They do so with a genuine effort to be meaningful. Broadcasters know that the listeners or viewers approach each newscast with one of the following attitudes: first, a particular story is unfolding and they want to follow it or, second, the broadcaster will have gathered the top stories and will have prioritized them in terms of the importance of the various available stories.

In either case, broadcasters have no sense that a particular story will make more people listen to their particular stations and therefore earn a larger audience with which to attract more advertisers. The commercial incentive of broadcasters drives them to have their reputation on the line at all times and their news activities of being reliable, accurate and timely.

Broadcasters do not claim any rights that the members of the public themselves do not have. The media are made up of members of the community who are trying to ensure that all members of the community have the opportunity of being exposed to differing views and information of public interest.

Here are our recommendations: Radio and television news directors recommend that police be bound to inform the public about certain specific matters.

First of all, on the accused: Police must inform the public immediately that a person is charged with an offence for which there is a statutory sanction, including charges under the Police Services Act, and identify such persons at the same time.

Second, victims: Police must inform the public immediately that a person has been victimized by an act in a situation where the police have been called to investigate and must at that same time identify that person, unless the police have reasonable and probable grounds, of which the proof lies on them, that iden-

tifying the victim will jeopardize the physical wellbeing of such a person. The grounds for such refusal to disclose must be made public.

Third, on the events issue: Police must inform the public immediately about any incident of which they are aware to be currently occurring in the community in which members of the public may reasonably expect to be injured, such as a hostage-taking incident or a shootout in the shopping mall or repeated incidents of sexual assaults in a particular part of town. Failure to comply with these proposed provisions should result in offences under the Police Services Act.

Furthermore, news directors also recommend that the Ontario Police Commission and the municipal police services boards have the same powers as most other tribunals in Ontario to hold parts of their meetings in camera, such as those parts where public scrutiny, personal, intimate or financial information or any other matter where the interest in not disclosing it is greater than the interest in disclosing it. Therefore, subsections 21(7) and 35(4) of Bill 107 should be deleted and replaced with the equivalent section 9 of the Statutory Powers Procedure Act. This will allow the tribunals to protect from disclosure just those matters that need it.

News directors also recommend that clause 56(f) and subsection 95(4) of Bill 107 be deleted. Clause 56(f) is not at all clear in suggesting how a police officer commits a misconduct by contravening a subsection that does not relate to police. Subsection 95(4) applies the strict non-broadcast rules that apply to courts and would not allow even the type of televising or radio coverage that is normally expected in public inquiries.

Having said all that, on a personal level I can tell you that we at CHFI have a great relationship with the Metropolitan Toronto Police Force, and part of the reason for that is that we have a full-time police reporter. As a result of that, we often-times will be able to get a lead, a jump, on many other broadcast outlets because of the fact that we have developed a very close relationship with them. Quite frankly, it does put other broadcasters who do not have and have not developed those relationships at a great disadvantage. To speak on some of those issues, I have with me Gary Ennett from CFPL in London.

Mr Ennett: As John mentioned, I am from London, the Forest City, the quiet peaceful home of the Premier, a prosperous, medium-sized city which continues to expand but yet retains, to a degree, a small-town mentality. That has its positive attributes, but when dealing with the police, when dealing with local government and other institutions, that can be a liability. That can be an obstacle to overcome.

I think this small-town mentality is reflected to an extent in our relations with the police. We get along, as John does with the Metro Toronto Police, quite well most of the time when we are dealing with routine matters, run-of-the-mill occurrences that are processed in a relatively predictable fashion. But when a major case develops—the unusual in London, a shooting, a murder, a hostage-taking—all of a sudden the goodwill that has built up or developed over the last number of months or years can just instantly disappear.

What we find is that the information flow, for a moment at least, and sometimes much longer, hours, sometimes days, dries up. There is absolutely no official confirmation that a major occurrence has taken place, or at least very little beyond that. We find that to be an intolerable situation in this day and age when, as a society, we recognize that the public very much has a right to know what is going on in its community, especially when occurrences such as I have outlined—hostage-takings, shootings etc—can impact on other members of society.

When we have asked basic questions concerning major investigations, things such as, "Whom have you arrested? What is their name and address? What is the charge?" we have often been stonewalled. On several occasions in the past—and I want to underline "the past," because things have changed; there have been some personnel changes in the London force in recent months—we have been told, "We don't have to tell you a damned thing."

We have been told in no uncertain terms that as much as the senior police officer would like us to have the information, he does not have to co-operate unless he feels inclined to co-operate. That is the matter that concerns us most, that while in most cases, on most days, we get along with our police department, there is always the provision for senior officers to refuse reasonable requests for basic types of information. It does not happen daily. I cannot recall an incident in the last few days, but I certainly recall incidents in the recent past.

1540

The problem is, when you meet with that kind of response and you do your research, you recognize that they are right: the police do have ultimate say over what is to be released and what is to be withheld. We are simply asking you to give serious consideration to some of the amendments we propose that would put more of a framework around the basic types of information that society has a right to have access to.

Eventually we get the answers. We also have a police reporter. We are one of the few stations which has the luxury. That helps us in many ways. We will send in the known personality and all of a sudden the information that was unavailable is now available because he happens to be on the right side of the right person. If I were at the competition down the street in the smaller-market news department that did not have those resources, I guess I would feel discriminated against.

As I said, eventually we do get the information we are looking for in most cases, but often only when it is convenient for the police, hours and sometimes days after the fact. In an age of information as we know it, with speed that is only surpassed by our ability to deal with data, we find that unacceptable.

The one exception I would like to draw to your attention about co-operation with the London police that I think is notable is their stated declaration that they will not release to us names of individuals charged with sex crimes. We have had a number of unfortunate incidents in our city where certain known and prominent members of the community have faced serious charges and have been subsequently convicted. Of course we take an interest in these incidents when they involve known figures.

As soon as we receive word, sometimes through anonymous sources, that this type of activity is going on, obviously we are at the police station asking some serious questions. It has become a very awkward situation for the police to the extent that of late they have as much as said in policy, in writing, "You will not be given information of this type." A public accusation, a charge has been made and they are telling us we will not have access. We find that totally unacceptable and we have told them so.

But there is this element of goodwill that persists, and so they have said to us, "What do you want this information for?" I have said, "At least so that we can track the accused through the courts." We are not necessarily going to run it. We are not going to splatter information on the air that may be of a preliminary nature or may in fact lead to an acquittal, but we certainly feel

in a democracy we have the right to know that these charges have been laid; we have the right to follow these matters through the courts.

What they have said to us is: "All right. Maybe we can do a deal here. We won't give you the names. We feel that's too hot for you to handle. It's too hot for us to handle. But what we will do is tip you off to the first appearance date in court. We are prepared as a police department to charge these people, but we'd rather you get the information officially in the courts."

I do not like to make those kinds of deals, but what choice do I have? What fallback position, what appeal mechanism, was available to me as a news director a few months ago when I was faced with that response? I had to agree. I have had to negotiate. I have had to compromise on basic, fundamental democratic rights and I do not feel very good about that as a citizen, let alone as a journalist.

That is what we are up against. Fortunately these kinds of charges do not surface on a daily basis, but I know right now that if a major sex crime is investigated in London and charges are laid, I will not get the names, addresses or any other pertinent information from the police. I do not feel I should have to negotiate these rights with our local police department when in other jurisdictions this information is freely released.

This is a concrete example of one of the inconsistencies, a glaring inconsistency, that occurs in different parts of the province. That is the reality of the current state of affairs and will likely continue to be the case unless you give serious consideration to the amendments we propose today.

Mr Bernstein: I guess I am here to represent private television and to tell you that in many ways we too are members of this community we all live in. We are no different from you. We have the same fears, the same joys. We attempt to do our job to conform with that community and with the community standards, because in fact they are our standards.

The community sets the standards we exist by. If we tell stories that they are interested in, in a way they want to hear them, frankly, our ratings go up. If we turn off the audience, if we get stories wrong, if we tell stories they do not want to hear or see, they tell us. We get phone calls, we get letters. Frankly, people change the channel.

We have to be as comfortable with our news as the public is. Global News does not report on rape victims. We do not report on suicides. They are already events that we will not cover, even though there is nothing in the law now that stops us from doing so. We work for the good of the community as much as everyone else does because, frankly, we are citizens in that same community.

For the most part we have excellent relationships with the police. We work together on stories. They ask us to help with missing persons, wanted suspects and to publish pictures. We help out at police events. We have reporters who appear at these events to speak on drugs and crime to children and groups where the police invite the public.

We pass along information to the police—just recently we passed along tips that we got on the Scarborough rapist—but the situation is far from perfect. I do not know of a single case on our side where we were asked by the police for help and we have turned them down. We have withheld information when they have asked us to, we have published pictures when they have asked us to, yet on a regular basis we find ourselves being turned down when we ask them for information or, more important, we find ourselves the victims of favouritism by the police.

Global, as you all know, is a provincial network. We are not always as interested in the local stories. We are not in the same

situation as the two gentlemen who spoke before me. Our police reporters are not in a position to make friends on the forces. What that means to us is that when certain crimes occur, when certain acts take place, we find that the police will tell CITY-TV in Toronto or CFPL in London, but no one will tell us. There is no way at this point in time that police automatically divulge information. What they are doing now is giving information to their friends. If you are not a favourite reporter of a certain police officer, you are unlikely to find out about the story.

To sum up: From our point of view, the reasons the police should be bound to release information as it occurs are, first, equal treatment for everyone is assured, and that includes the media, the victims and those charged; second, I believe it would free the police to do their duty and not worry about the extra burden of what should or should not be public information, and finally, as far as I am concerned, I do not believe the police are trained to make the kind of decision we are asking them to make on what should and should not be made public.

I want to add one thing, because I know some of you believe that freedom of information covers the subjects we are bringing up. We do not see it that way. We are talking about public awareness of certain matters when they are occurring. We are not talking about recordkeeping. The mere fact of public awareness has an effect on the way situations are handled by everyone involved. By dealing with this as part of the duties of the police, the police will not be put in the position of determining when and in what cases they will make announcements about who has been charged, who has been victimized by a crime or where the public might be injured.

Further, it is not a freedom-of-information matter, because freedom-of-information matters would be dealt with by the internal department guidelines of the application of the freedom-of-information legislation. The interdepartmental committee is not, as we understand, merely a committee of government. Instead, we understand that the Ontario Association of Chiefs of Police has representation on it. Why then are the media not represented on that committee?

Guidelines do not have the force of law. If the police do not have the compulsion of law in informing the public about those matters identified by us, then we will be faced with the prospect of the police saying, "Sue us if you think we have done something wrong." The onus should be on the police, not on the public.

Mr Hinnen: Finally, the freedom of the press, when you think about it, really means nothing more or nothing less than the right of the public to know. I would hope that by looking at our recommendations you will protect the whole public's right to know.

1550

The Chair: Thank you, gentlemen. I believe the Solicitor General has a question or two off the top.

Hon Mr Offer: I might just ask one quick question. We have heard a series of representations based on this one particular issue, and the question I have revolves around the issue of victims. When I read this, it states that the "police must inform the public immediately that a person has been victimized by an act in a situation," and it goes on to say, "unless...identifying the victim will jeopardize the physical wellbeing of such person," the release of that information will victimize the physical wellbeing of such person.

I would like to get your reaction to what is the jeopardization of the physical wellbeing of a three-year-old who has been the victim of incest.

Mr Hinnen: First of all, we do not deal with issues relating to sexual assault, and there are statutes as well that protect a youngster of that age, so quite frankly I do not think you would ever hear a story like that, certainly not on our radio station.

Hon Mr Offer: If not a three-year-old, then what about a 21-year-old or 22-year-old rape victim?

Mr Hinnen: First of all, we do not broadcast the names of rape victims—that is certainly our policy and we have lived by that—just as we do not broadcast the names of those who have committed suicide. There are certain rules that we go by and that we have lived by and that is one of them. It is an unwritten rule.

Hon Mr Offer: There are other questioners, I am sure, but my concern is that when one adopts a criterion such as you have adopted here dealing with victims, it opens the door to the possible release of information which may be very harmful in a psychological sense to many, many people, such as an accident victim who has died. What is the impact on the next of kin, and would that fall within the definition of a victim or not? I just ask for your reaction to that.

Mr Hinnen: All right, let me address that in this way. It is our feeling that on a general basis, speaking on CHFI's level, we will not broadcast the name of somebody who has died in an accident if we are requested to withhold that information by police until next of kin have been notified. We live by that rule. I cannot remember an incident where that rule has been broken. We have been asked on many occasions to withhold that information, and we have done so for various reasons; we feel it is appropriate that next of kin be notified first of all, and we feel it is important as well in order to develop a relationship with the police departments.

The Chair: Thank you. We have about five or six minutes per caucus, and we will start with the members of the New Democratic Party, who indicated first that they wanted to ask a question.

Mr Kormos: I come from a small community in the Niagara Peninsula and—growing up with a diet of Eyewitness News—I appreciate and have a great deal of respect for the Canadian news media, because the restraint you talk about has always been there. At the same time, though, if there has to be even the slightest balance between the effectiveness of police work and publicity, and that is to say publicity from the point of view of right to information, would you ever want to see the effectiveness of police compromised by even the slightest amount?

Mr Hinnen: We do not. But I think one of the reasons we put this type of process forward is that we are not here to try to interfere with police investigations—far from it. What we are dealing with here are acts that have been completed, where charges have in fact been laid and where victims have been determined. Those are different scenarios.

As far as events are concerned, again that is a third scenario that is very important. One could suggest that if there is a shooting somewhere downtown, you would not want to send relatives into that type of environment in order to make sure that they remain healthy and well.

Mr Kormos: Except your second recommendation would imply that the right to knowledge on the part of the media is before any charges are necessarily laid; that is to say, you must be informed immediately that there has been a crime, that there has been a victimization, wherein there has been an investigation.

The Solicitor General has enumerated a couple of circumstances. Let me tell you about break and enters. The mere fact of a break and enter being publicized—let's say it was an elderly person and a large sum of money was missing—merely advertises to all the other potential break and enter artists that this home is ripe for the taking, and that is a case that is well known.

Mr Hinnen: However, if the operation is also publicized in terms of how they managed to conduct the break and enter or the fraud, whatever the case may have been, there is also an opportunity there to make sure that other elderly citizens are made aware of exactly what the motive and the operational mentality of this type of individual might be and to alarm them and to prepare them for this type of eventuality in hopes that they can avoid being put into that type of situation.

Mr Kormos: In view of the fact that decisions have to be made quickly, even decisions about whether or not identifying the victim would jeopardize the physical wellbeing of that person, how would you propose that that decision-making process take place?

Mr Hinnen: To be honest with you, we have a lot of difficulty as well with the entire victim situation. In our own shops every day we struggle with that very question of whether we should publicize that information or not. But, quite frankly, I think we are trained to handle that type of information more than the police are. I would rather that information be made available to us and let us deal with that information when it comes to us. I think you may have to agree that the media in general react very favourably and certainly look at all of their responsibilities in a very serious light.

Mr Kormos: I am the last person who would ever want to restrict the media from doing their jobs, my goodness.

The Chair: Thank you, Mr Kormos. I believe your colleague has several questions.

Mr Philip: Yes. One of the concerns I have over what I would call the ombudsman section of this act is its inconsistency with other acts in the province, and I have a question that I really do not know the answer to. Suppose John Doe is charged with sexual harassment under the Human Rights Code. Do you have access to the fact that a charge—or a complaint, if you would rather—has been laid against him? Do you have trouble accessing that?

Mr Hinnen: I am not exactly sure on that information.

Mr Bernstein: I regularly get reports from the human rights commission on who is going before it, and so far I have been getting them for about six months. We have never gone to air with any of those stories.

Mr Philip: It just seems to me to be inconsistent that for somebody who is charged with sexual harassment you can have access to that information, but for somebody who is charged with rape you should not have access to that. It seems to be a certain inconsistency, would you not agree?

Mr Bernstein: I certainly would agree. Yes.

Mr Philip: One of the things that is fairly clear from your brief is that there appears to be an inconsistency from one police force to another as to whether or not you get information. The act is completely silent; there are no guidelines whatsoever that the police should use.

Rather than a major amendment that guarantees certain rights to the press, would you at least feel that at the very minimum there should be guidelines and that you should have the right to appeal to the public complaints commissioner in those instances where you feel that the local police are violating those guidelines?

Mr Bernstein: I think obviously guidelines would be better than what we have got now, but I think the important words that we have tried to keep repeating are "as they are occurring," because the point for us is, that is when it is news. As news people, going through appeal processes—it is not news six months later.

Mr Philip: I am sure you would agree, though, that if one particular police officer or force is found to be erring and you have been successful with your complaint a number of times, that kind of action would be corrected.

Mr Bernstein: I would hope so.

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Mr D. W. Smith: I will try to keep my comments as short as I can. Mr Bernstein, I think, made a couple of comments, and I do not know whether I interpreted them rightly or not, but you said that some police would go to some reporters. It almost makes it sound to me like they have the right to give out some more information than they actually do, but the police may want to go to a friend more than a general reporting group. Do you feel the police have more opportunity to give out information than they actually do—I do not know why—but they want to keep it to their friends? Is that what you are really saying when you make that comment?

Mr Bernstein: What I am saying, I guess, is that police have certain reporters they trust. They trust those reporters to tell the story the way they want it told. These reporters will tell the story in a favourable light to these specific police officers and they know that due to experience. Therefore, they will release the information to these friends as opposed to releasing it to all journalists.

Mr Dietsch: You mean the news media are corrupt?

Mr Bernstein: No. We all have our opinions, and people in the media have opinions too. If someone happens to have favourable opinions towards the police, he may be more likely to get a news story.

Mr D. W. Smith: There have been three groups here from the media, whether newspapers, television or radio. If you were able to give out more information on the accused, do you believe in the long run that maybe you would be preventing crime from happening? Do you think if people realized, "Golly, if I do this or that, my name might appear more quickly in the media," crimes might be prevented? Is that why you as a group are all asking for more information more quickly?

Mr Bernstein: I think the reason we are asking for the information is because we have a job to do and the only way we can do that job is to have the information. As was pointed out earlier by John Hinnen, we have to do the job we are doing by CRTC rules. Without the information, we cannot do it properly.

Mr D. W. Smith: But do you think that in general you might prevent crime, or more crime from happening, if more information was put right on the screen on television or right on the front page?

Mr Bernstein: I cannot honestly answer that.

Mr Polsinelli: Thank you very much for your presentation, but as you were going through it I had a déjà vu experience. We had the Canadian Daily Newspaper Publishers Association here a couple of days ago and, surprisingly, its recommendations A, B and C were verbatim what yours are. I am starting to question whether or not there is some kind of conspiracy here. Maybe you can address that at some point.

I am very interested in the recommendations. You talk about the media having a job to do; that job is to inform the public. The police have a job to do; that job is to protect the public. The recommendations that you have put an onus on the police that, effectively, they have to release that information right away. Particularly in dealing with victims, the onus on the police is that they have to release the name of the victim unless they have reasonable and probable grounds, in which the proof lies on them, that identifying the victim will jeopardize the physical wellbeing of such person. That is such an onerous requirement that it basically means the police department has to release the name of every victim.

We have heard some of the concerns of the Solicitor General in that regard. I think what we are really talking about here is discretion and who should exercise that discretion as to whether these names should be released. Should it be the police department, whose job it is to protect the public, or should it be the media, whose job it is to inform the public, that has that discretion? That is where I think the question really lies.

Mr Ennett: That is exactly what we are saying. Our concern is that the role of the gatekeeper, which traditionally has been the obligation of the journalist, in the last few years seems to be shifting towards the legislative arena, or at least the institutional area. We are concerned about the objectivity of institutions such as the police. It is fine if they are dealing with charges that affect disinterested others; they can be most objective. But what happens if the charges concern one of their own? Where is the objectivity then?

We are not perfect, we have our faults, but there are many editors, and there are many reporters in most major newsrooms. We often decide matters such as we have discussed today in a collegial way. Very rare is the situation where one of us just decides unilaterally. Often, I will go out to my staff and say: "This is a difficult call. I want to make sure I am doing this right. I want your input." That is how we render these decisions.

Mr Polsinelli: If objectivity is a motivating factor, though, is not the profit incentive also a motivating factor? While you may question the police's objectivity when dealing with one of their own, I would question the media's objectivity when they have a very hot news story.

Mr Bernstein: In those cases there is no profit for one station. We all have the hot news story. If you watch the news on any given night, you can flip from station to station and the hot stories are the ones we all have. There is no profit to be made on those.

Mr Polsinelli: When we are talking about the hot news story, if the item is released, if the discretion is shifted completely to the media, you have the reputable media that will say, "This is not the type of information that should be released,"

and I am sure all your stations are like that, but then you may have another one that is suffering, its advertisers are not throwing in the money, and it says: "Hey, this is a real hot story. If we're the only one that runs it, maybe we'll get more of our market share back." I am saying those are the questions that have to be looked at.

Mr Bernstein: My reading of the public is such that, having been through a case that could be on the borderline just over a year ago with the budget, generally the public lets you know very quickly. The Canadian public is not the American public. They do let you know when you have crossed the line. I think if profit is what you are trying to achieve, the Canadian public will take that away from you as quickly as they give it to you.

Mrs Marland: Mr Ennett, you have raised a very important issue this afternoon where you are talking about a double standard in terms of the police in the Premier's backyard. I think it is very significant that you bring to us the information that publicly known figures in London receive different treatment than do the unknown people. You used the example of sex charges, and I suppose sex charges are a high-profile news item, more than embezzlement or other forms of corruption or assault. This example you are giving of how the police treat the news media in London: Is it peculiar to London or can you say there are other examples, through your colleagues in the province, of a similar experience?

Mr Ennett: No, it is not peculiar to London. London is just one of several jurisdictions that chooses to be more restrained in its handling of that information. Generally, I think the smaller the municipality, the more resistance there is to processing that information. I think there is less experience with it. The smaller the community, I suppose the thinking on the part of the police is, the greater the chance of the individual's reputation being affected, whereas in a major city those factors are less pronounced. Quite clearly, London is just one of several municipalities that has difficulty being direct and forthright with information of that nature.

Mrs Marland: I think it is awful that you have to come here and make that statement. We hear about a law for the rich and a law for the poor, and what you are saying is confirming that there are double standards involved as to whether I, as a public figure, and someone who works for me, whom no one knows, receive totally different treatment. I would hope that none of us in this room would support that situation. Even if it has become a fact, I think it is indefensible that who you are is dependent on whether your name is before the public or the public have access through a right to know.

You are dealing with people who have been charged here. We have had very sad situations where people have been charged, particularly with child abuse and crimes with children, where they have been totally innocent. The word has got out and that person is not even charged. But your example is where people have been charged and have a different set of protections, depending on who they are. As far as I am concerned, that is totally unacceptable.

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Mr Ennett: I would just like to add that our own news policy is that we will not air the names of individuals charged with sex crimes until such time as they are convicted. Our purpose in seeking this information is to simply track their progress through the courts. Yet there may be the occasion when the

person charged is a public figure who has to be identified because of the nature of his responsibilities. We are simply asking for the right to that information so that we can do the proper thing if that scenario were to occur.

Mrs Marland: I agree with you but, if we move away from sex crimes into other areas, are we going to say that a man who steals a loaf for his hungry family, his name is released, but if he is a multimillionaire who steals something else, his name is not released? I mean, this is what your—

Mr Ennett: As long as police have the ultimate say on what information will be released, society will always run that risk of a double standard existing.

Mrs Marland: Can I just ask you one quick question? Where you are talking about victims being identified, you are not including in that list victims of rape?

Mr Ennett: No. Our policy, as was mentioned here by the other gentleman, is to never identify victims of rape.

The Chair: On behalf of the members of the committee, Mr Hinnen, I want to thank you and your colleagues for sharing your recommendations and views with us. I am sure they will be very useful to the committee when we enter into our deliberations.

CRIMINAL LAWYERS' ASSOCIATION

The Chair: Our next presenters will be from the Criminal Lawyers' Association, represented by Bill Trudell, vice-president, and Jane Fairburn, one of the lawyers. Please come forward. Just to review, you have roughly 30 minutes for your presentation, which includes questions and answers, so we would appreciate it if you can leave as much time for questions and answers. Please proceed.

Mr Trudell: The Criminal Lawyers' Association has prepared a brief. There are some 15 recommendations, I believe, that we will go over. We propose to go through the brief. It is broken down into basically three main areas, and I am going to ask Jane Fairburn to deal with the first one.

Initially, I would like to state that, with over 600 members throughout the province, we wish to acknowledge the assistance and co-operation which we have received from the minister, Mr Offer, Deputy Solicitor General Lal, Clare Lewis, various representatives of the Metropolitan Toronto Police Force, including the chief's office, and the Ontario Police College.

We applaud the proposed Police Services Act and its acceptance of many of the recommendations of the Lewis task force, including expansion of the complaints office province-wide. We welcome the opportunity to address this committee on specific issues that we feel must be covered in this act or its regulations, and I would ask Ms Fairburn if she could deal with the first area of some considerable concern to us, the use of force.

Ms Fairburn: I would first like to bring to your attention that the Criminal Lawyers' Association did address the task force on race relations last year and we would like to quote from the OPP manual, as we did last year. I think the quote is quite significant today. The manual says, "Under stress in a crisis you will instinctively revert to the way you have been trained."

Significant improvements must be achieved in training regarding the use of force. The emphasis must not be on how far an officer can go but on discipline in responding to volatile

situations without reverting to the use of force or the use of firearms.

We have broken our submission on the use of force down into a few subheadings. The first one is training.

The responsibility for police training pursuant to the Police Services Act lies with the Solicitor General. That responsibility is delineated in clause 3(2)(d) and it states the Solicitor General shall "develop and promote programs to enhance professional police practices, standards and training."

With respect to this area, we recommend that the responsibility should be an ongoing one and added to the section should be the words "and monitor" so that the section reads "develop, promote and monitor."

It is our position that police officers across the province should be kept abreast of the latest training techniques and developments as they become available. Retraining then should become a responsibility of the Solicitor General and it should be included specifically under the purview of section 3.

In conversations with representatives of the Ontario Police College, we were told that it would take roughly 10 to 15 years to retrain all Ontario officers through the Ontario Police College, as there are currently not the mechanisms in place to facilitate this.

Our recommendation in this area is that we submit that the Police Services Act should provide for the establishment of specially trained officers whose mandate would specifically be retraining. These officers, equipped with up-to-date training techniques, would visit the various regions in Ontario to conduct training sessions especially in the use of force.

The second main thrust of our submission under the use of force goes to the types of training. We remain deeply concerned that police officers are not receiving sufficient hands-on training and education in the discipline necessary to refrain from the use of force. Our information continues to indicate that education on the use of force focuses on the degree of force that is allowed within the Criminal Code and the existing Police Act.

We reject, and urge this committee to reject, the training techniques that focus on what circumstances allow an officer to draw and discharge his firearm. The emphasis is misplaced here. Rather, what we suggest is that the emphasis must be on avoidance and control through trained responses.

The Criminal Lawyers' Association submits that the Police Services Act must require the Solicitor General to set up standard simulated training exercises. We referred to a couple of these standard simulated training exercises before the committee established to look into policing last year. We can provide the names of these for you, but the simulated exercises really deal with a crisis situation that an everyday officer may face on the beat and he is provided with alternatives. One of those is to draw his firearm and one of them is to resolve the situation through non-violent action.

Section 44 of the Police Services Act provides for a probationary period to be served by a police officer. The Criminal Lawyers' Association submits that during the probationary period the police officer should be required to engage in simulated training exercises. The successful completion of his probationary period would be contingent upon the useful completion of tests with regard to his or her responses to the use of force.

With regard to firearms, a firearm must be an instrument of last resort, the use and drawing of which must be severely restricted by the regulations and instilled by education, as set out above.

The Criminal Lawyers' Association submits that the current regulation 790 of the Police Act as currently enacted should be rejected. I am not going to read or set out for you the current regulation, but with respect to paragraph 6, the key is that an officer may draw or display his revolver only when it is necessary in the performance of his duty. A crucial word there is "necessary" in the performance of his duty.

Paragraph 7 states that no member of a police force shall threaten or attempt to intimidate any person, except when necessary in the performance of the member's duty, with the use of force.

Paragraphs 8 and 9 are basically self-explanatory. I am not going to go through the specifics of them. Rather, I will address what the Criminal Lawyers' Association sees as a viable alternative.

The submission of the Criminal Lawyers' Association is that no member of the police force shall draw his revolver in the performance of duty unless the member believes on reasonable and probable grounds that such action is necessary to defend his life or the life of another. The police officer must not draw his firearm for the purpose of merely effecting an arrest.

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Further, no member of the police force shall discharge a firearm in the performance of duty, except if the member believes on reasonable and probable grounds that to do so is necessary for the defence of his life or her life or the life of another or to destroy an animal.

With respect to reports and monitoring, the current situation requires a use-of-force report be filled out by an officer each time a firearm is discharged. At present, regulation 790, paragraph 10 of the Police Act, provides that an investigation shall be held each time a firearm is discharged by an officer.

The recommendation of the Criminal Lawyers' Association is that the regulations of the Police Services Act must require documentation not only when a firearm is discharged but when a firearm is drawn by an officer. Currently, when a gun is discharged, a use-of-force report is filed. We recommend that when a gun is drawn, this fact should be noted on the occurrence report.

The Criminal Lawyers' Association submits that an investigation be held when a firearm is discharged and that the regulations provide that an investigation can be ordered regarding the drawing of a firearm after a review of the occurrence report is undertaken, and the review of the occurrence report would be mandatory. If no investigation is conducted, the superintendent of the division must document his or her decision on the report.

With regard to police chases, regulation 133, paragraph 20 of the Police Services Act refers specifically to the issue of police chases. The Criminal Lawyers' Association agrees that it is time for police chases to be restricted by legislation. The Criminal Lawyers' Association submits that a regulation be drafted as follows:

"No police officer shall engage in the pursuit of a motor vehicle unless he has reasonable and probable grounds to believe that the driver has committed or is committing an indictable offence and has refused to stop and the officer is satisfied on reasonable and probable grounds that engaging in the pursuit would not endanger the life or safety of a third party and that all other means of stopping the motor vehicle have been exhausted."

I will turn you over to Mr Trudell.

Mr Trudell: One of the concerns that we had in looking at the submissions we would make is the protection of the police officer who faces a complaint as to his conduct, and the next section of our brief addresses that.

The Criminal Lawyers' Association is jealously protective of the interference with a police officer's right to be presumed innocent when faced with an allegation of misconduct.

The use of statements: The act protects an officer from giving evidence at an internal hearing or one initiated by the public complaints commission. Nevertheless, we are concerned with a police officer being forced to provide a statement where a concurrent criminal charge has been launched.

We understand that the public complaints commissioner has undertaken that an officer under investigation does not have to give a statement where there is a concurrent criminal charge against him before the courts, or indeed if the complaint is such that it could result in a criminal charge against the officer.

The Criminal Lawyers' Association recommends that a police officer under investigation, either internally or by the public complaints commission, who is also facing concurrent criminal charges before the courts must have his absolute right to remain silent protected by the Police Services Act. However, we call upon the Attorney General of Ontario to issue policy guidelines that no statement given by a police officer pursuant to an investigation can be used against him in any criminal proceeding that may result or follow.

Stay of discipline proceedings: Where a complaint is lodged pursuant to the Police Services Act, proceedings under that act would normally continue, even when proceedings under the Criminal Code have been initiated. A stay of the Police Services Act proceedings may be discretionary after consultation with a crown attorney.

The Criminal Lawyers' Association submits that the criminal prosecution takes precedence, that proceedings under the Police Services Act be stayed and, where appropriate, the subject officer be suspended with pay pending the resolution of the criminal charges before the court.

Burden of proof: Section 96 of the Police Services Act provides for a new burden of proof at the board of inquiry established to resolve public-initiated complaints. This new standard is one of clear and convincing evidence. This standard represents, as we understand it, a balance between the civil burden, the balance of probabilities, and the criminal burden, proof beyond a reasonable doubt. This new standard, we understand, is more common in the United States. However, mindful of the seriousness of possible allegations and the rights of appeal to the courts that an officer may have, the Criminal Lawyers' Association is concerned about importing a new legal onus, perhaps confusing, certainly novel, to measure a subject officer's conduct.

We have a recommendation in this area. The Criminal Lawyers' Association submits that the standard of proof should be or could be dependent upon the nature of the misconduct alleged. If the subject officer's alleged misconduct is criminal or quasi-criminal in nature, the onus must be proof beyond a reasonable doubt. If the misconduct is more regulatory, the onus ought to be on the balance of probabilities.

Overlapping functions of the Ontario Civilian Commission on Police Services: The Ontario civilian commission, under part II, section 22 of the new legislation, has the responsibilities of investigating municipal police matters and hearing appeals by members of the force in accordance with internal disciplinary proceedings. We are concerned that the Police Services Act does not include a provision to deal with this possible conflict.

We then make this recommendation, that the members of the Ontario civilian commission who have participated in the investigation of an officer's misconduct ought not to sit on the appeal.

The next topic I would like to move to is the public interest. We are concerned with the threat of an apparent increase in mischief charges laid under the Criminal Code by police officers who have deemed a civilian's complaint frivolous or vexatious. This practice, of course, has a chilling effect on the potential filing of a complaint.

The Criminal Lawyers' Association submits that in all cases, before a criminal charge is laid as a result of an allegedly frivolous or vexatious complaint, the crown attorney must be consulted and this fact documented. We are not suggesting that it become a part of the Criminal Code, but if indeed it is documented and indeed a person retains Ms Fairburn or myself or any criminal lawyer, we will know whether or not a crown attorney has been consulted in relation to this and a crown attorney will at that point, at least, be brought in.

The role of the Ontario Police Commission: Section 3 of the Police Services Act transferred most of the powers and responsibilities that the police commission had with respect to the direction of police services in Ontario to the Solicitor General. The Criminal Lawyers' Association submits that the police commission should retain its advisory and consultative capacity. This is especially important with respect to the development of training techniques in relation to the use of force.

In camera meetings of the Ontario civilian commission: Pursuant to section 21 of the Police Services Act, meetings are to be held in public. Nevertheless, meetings may be closed to the public when matters to be discussed involve public security or intimate financial or personal matters. It is submitted that the Police Services Act should spell out that in camera proceedings should only take place with the consent of the Solicitor General and where written reasons are provided which justify the in camera meeting.

The Criminal Lawyers' Association, in closing, supports the efforts of the Solicitor General. We appreciate the outstanding work performed by Clare Lewis and his task force that led to this legislation. Policing is at a critical time in our province. Accountability is of grave importance. We urge this committee to consider our 15 recommendations, which we feel address the basic rights and freedoms of citizens of Ontario as well as those of individual police officers.

The Chair: Thank you. We have a number of questioners. Mr McClelland, please proceed.

Mr McClelland: I have actually a number of things I would like to proceed with, but I will limit it to one because of the shortness of time.

Mr Philip: How much time, Mr Chair?

The Chair: Five or six minutes each.

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Mr McClelland: I refer to page 4 of your brief, part B, second paragraph, and then turning that over subsequently to page 8 and your recommendation, I see them going hand in hand somewhat.

I am a little bit curious, I suppose, about the words with respect to the information that you have. I say only by way of observation, with no empirical data to substantiate it but my interaction with police officers, certainly in two forces, and some association with them, that in fact the emphasis in educa-

tion—indeed, every senior officer, both in training and in active duty, that I have ever had the opportunity of speaking with has said—is not on the use of force but in not using force and only having it as a last resort. I know that the Solicitor General has undertaken a serious commitment with respect to the necessity for enhanced training and ongoing training and providing some additional training for police officers, indeed has changed by legislation the entry requirements for police officers.

I guess my point in short is, what is the basis of your information that education focuses on the degree of force? My experience—again, I qualify it and say that it is not empirical in nature—says that everything I see leads me to believe that senior police officers stress the use of force as a last resort.

Mr Trudell: We addressed this issue before the task force on race relations. The question was asked of me and I responded. I would like to ask Ms Fairburn to respond to it here, because she has information that is very recent.

Ms Fairburn: We do not, first of all, take issue with the fact that senior officers are encouraging the rank and file to use force only in the most grievous of circumstances. There is no issue there. I think it is really a philosophical situation that comes from perhaps learned training that emphasizes those grievous circumstances where the use of force or drawing one's firearm may be the only alternative.

I point you to a video by the Metropolitan Toronto Police Force, which it was kind enough to let us view, that addresses the use of force. They also use that video for retraining purposes. It specifically outlines serious situations where perhaps the only alternative would in fact be the drawing of one's firearm.

I suppose the thrust of our submission is that we should be looking at other areas, perhaps through simulated training, where we could get into different ways to address a potentially conflictual situation where non-violent action techniques could be an alternative to drawing one's firearm.

Mr McClelland: I do not think we have any issue with respect to the philosophy and the rationale and where you want to go with that. It makes abundant sense to me and I believe that it would to virtually every police officer, man and woman, in this province, from an objective point of view.

I suppose my concern is, again philosophically, that it seems to me that police officers are—no pun intended—handcuffed in many respects, and to the extent that legislation is drafted, I think we have to be so very careful not to add to that difficulty. They are often, it seems to me, in a “damned if you do and damned if you don't” situation. That is the concern that I have in trying to embody the philosophy I share with you, and I say again that I believe virtually every police officer shares.

Again, I just was curious in terms of the data that you use to support the position that there is an inappropriate focus.

Mr Trudell: If I could just respond, we are not satisfied from the information that we have received, both in preparing submissions to the race relations task force and even today, that there is enough simulated training of police officers so that they know how to respond to crisis situations. We feel, and our information is, that police officers are taught, in effect, how far they can go.

We feel that when you put a gun on a police officer's hip, he has got to have mandatory training that he has passed that he will pull that gun out at last resort. Perhaps you are able to, but we, from our research, are not able to show anywhere in the province where that type of intense training is done to a satis-

factory level. As a matter of fact, the police officers we have spoken to in the colleges and who have assisted us and have been quite open are not satisfied.

We are not talking about lectures and, “Here is a videotape as to how far you can go or how far you can't go.” These people have to be trained. When you put a gun on a hip of a young police officer in Metropolitan Toronto and you put a gun on a hip of an OPP officer up in an area where there is really no population, both of them have a gun, both of their training may be very much the same, but we do not feel that it is covered enough. That is why we have called for mandatory, standard, hands-on training that is monitored by the Solicitor General and updated.

Mr Curling: The emphasis all the time is on training and I want to take my question a different way, with the understanding that you people, criminal lawyers, have had great experience with policemen and also those who are charged so you have seen the kind of character and personality that is there.

We here place a great emphasis on employment equity and may feel that this will solve the problem itself. I think that only takes care of certain individuals who have been restricted from coming into the police force.

My question then is, do you feel that the act, or the police force itself, does enough proper screening for recruiting for the selection of the type of personality they want? We keep thinking about this individual who is there who is so alienated that once he or she gets there and you put a gun on the hip, the person goes wild unless you train him. Do you feel it is adequate, the kind of selection of the individual that we have, that we can put a gun on that one hip?

Mr Trudell: I wish that I were an expert and could answer the question. I think I can speak for the Criminal Lawyers' Association in this regard, but it is more of a personal question. How do you teach discipline, really? How do you screen discipline?

I hope that this committee is satisfied after its hearings as to what the terms of reference are for a young policeman or policewoman to be hired. There are certain things, I suppose, that you could refer to that would screen persons out, but in relation to the use of force, including firearms and police chases, it only comes, I would think, by intensive training and the discipline that has to be built in at the first level.

I wish I could help you with that, but—you know, I suppose the same issue is applied when you go into law school. Is this person equipped to be a lawyer? It is only through training and discipline and understanding what your rights and obligations are that you either perform your obligations properly or not. It is a very difficult area, but one that we are not experts in and cannot really answer.

Mr Runciman: I am curious about the consultative process that took place in respect to preparing these recommendations. You mentioned that you talked to a couple of police officers at the college. I am wondering, in terms of pulling this together, how extensive were your contacts with rank and file officers, the cops on the beat, the people who have to live with the kinds of recommendations you are making here?

Mr Trudell: I will leave some of that to Ms Fairburn. I did not speak to any of the rank and file officers on the street in terms of the issue of force.

The issue of addressing the due process protection that officers have is something that the Criminal Lawyers' Association has been concerned with for quite some time and it comes

from—without mentioning names—experiences that criminal lawyers have had defending police officers. It is as a result of that need that we address due process.

In relation to the use of force, I personally have not conducted any interviews with the officer on the beat, but I can ask Ms Fairburn to talk about some of the various agencies that we have consulted over the last year and a half in relation to the training.

Ms Fairburn: With respect to the consultative process, I think it would be fair to say that in general terms we spoke to people higher up in the levels than the rank and file officers, and I think that is a very good question. I have spoken to officers in my everyday practice in an informal way with regard to these concerns in terms of the use of force. However, in terms of extensive research that was conducted with rank and file officers, no, I would have to tell you that that research was not done. It was done through the people who train the officers and who are responsible for that.

1640

Mr Runciman: That is very much a concern of mine. I have spoken to a lot of police on the beat, folks at 52 division in downtown Toronto, people who have to live with this on a daily and nightly basis. We can quote the crime statistics in terms of increasing violent crime in Metropolitan Toronto, staggering increases in the past number of years, and the kinds of difficult situations these officers have to face on almost a daily basis. I do have a concern that when we are trying to deal with recommendations like this there has not been that kind of contact with those people.

Specifically, when you are talking about restrictions on removing a weapon from a holster, I would like to give you a scenario and see how you feel this would fall within your recommendation. If an officer is called to a suspected break and enter at a warehouse, for example, gets to that warehouse at two o'clock in the morning, by himself, sees that a door is open and is entering that facility, under your recommendation how do you feel that officer should proceed, with his weapon in the holster, or should he draw his weapon and enter the building with his weapon in his hand?

Ms Fairburn: The first key point that you raised was that the officer was going in by himself, and I think that is a problem. I think we have to put the money and whatever it takes behind our officers so we are not putting them into those sorts of situations.

Second, the thrust of our submission would be that the officer is going in without his gun drawn. We really put a lot of time and thought into that submission and we are really of the view that the officer has to commit himself in order to draw his firearm. He has to be committed on reasonable and probable grounds that someone's life is in danger.

Mr Runciman: So you would say he should go in with his weapon undrawn. I just want to give you an example from a couple of years ago. Constable Doug Tribbling, who responded to exactly the situation I am describing, went into the warehouse without his weapon drawn and was shot on the spot—killed. Perhaps your recommendations need a little more reflection.

Mrs Marland: Let me just follow up on what Mr Runciman has said. In your answer you said that it should only be drawn if someone's life was in danger. In that example that Mr Runciman just gave—two o'clock in the morning, obviously it

is dark, into an unknown situation—surely it is quite a possibility, if the report has called the police there in the first place, that the police officer's life might be in danger.

Mr Trudell: With great respect, I would reject the situation you have presented. I do not want to get into that particular fact situation or that particular case because that case has had some history in the courts. It is my respectful submission that officer does not have reasonable or probable grounds when he is investigating a possible break and enter to pull a gun and walk into a dark room. If indeed the officer had reasonable and probable grounds to believe that someone was in there and that person was armed may and endanger the officer's life or the life of another person, it is a completely different situation.

Mr Runciman: I would like to see you in that situation. It is pretty easy for you to say that.

The Chair: Do you have another brief question?

Mrs Marland: Yes, I do. It is a brief one. On page 17 you are recommending that "in camera meetings should only take place with the consent of the Solicitor General and where written reasons are provided which justify the in camera meetings" of police commissions. Surely that does not read the way it is written. Surely you are not suggesting that an in camera meeting could not take place without written permission from the Solicitor General. I am talking about an emergency in camera meeting or an in camera meeting for which there just simply is not time to get a written reply from the Solicitor General saying, "Okay, go ahead."

Mr Trudell: There may be certain circumstances where in your deliberations in the committee you may find that there are indeed certain times when it should be in camera, and these recommendations are given for your assistance and guidance. They are certainly not exhaustive. You might be able to find areas where in camera proceedings are in the interest of the persons involved and we certainly would not have any great objection to that.

Mrs Marland: You are saying that all in camera meetings must be only with the consent of the Solicitor General after written requests have been made.

Mr Trudell: We are simply talking about the issue of control, that is all. You may indeed find in your deliberations that is too tight, it is too exhaustive in the way it is phrased, and we would certainly bow to that.

The Chair: Mr Kormos, you are next. For your information, we have permitted each caucus about seven and a half minutes. We went a little bit over with each one, so you have about seven and a half minutes.

Mr Kormos: Gosh, thanks.

I come from Niagara region, which is not the big city Toronto is. As a result of recent legislation that compelled the municipal or regional police forces to effect security in the courtrooms, Niagara Regional Police have had to undergo some changes in how they do things. I am told the chief of police has directed that only police officers who are in the criminal investigation branch are to be called upon to provide courtroom security. That has created a real shortage of CIB officers and a real backlog of CIB work, and we are talking about a one-month, two-month or maybe three-month backlog of occurrence reports sitting in a CIB office waiting to be worked on by criminal investigation people. Is that unique to the Niagara region, or in your experience have you found that to be a similar

impact or effect of municipal responsibility for courtroom security in other parts of the province?

Mr Trudell: It is my experience in the city of Toronto, for instance, that the courtroom security is provided by the municipality. The persons who are there are specifically hired for that purpose. I cannot think of any experience I have had where an officer is taken off other duties and assigned to court security purposes, unless of course it is in a particular case where there is a security risk. I have not heard that across the board. Certainly in the municipality of Metropolitan Toronto there is one specific group of persons who provide the security and that is their job. That would be a shame.

Mr Kormos: Small cities like Welland, St Catharines and Niagara Falls will be suffering in a way that Toronto is not as a result of this transfer of responsibility.

Mr Trudell: If that is the case, then I would agree with you.

Mr Kormos: As a criminal lawyer, would you not say that the longer it takes for a CIB officer to get to an occurrence report, be it a fraud or a break and enter, the more difficult it is going to be for him to put a case together?

Mr Trudell: In the long run, the client has to suffer under the cloud and it continues right down the line. There is no question about it that court security, I would think, is not a job for an officer involved in a criminal investigation branch. If that is happening, then it is a very sad comment.

Mr Kormos: You talk about the standard of proof in the course of allegations of misconduct. I have a little bit of difficulty with that, because it strikes me as saying—and I am sure there would be people who would find this a fine idea—that in the criminal process maybe we should have the classic criminal standard in cases of indictable offences. But on the balance of probabilities when it comes to summary conviction offences, how can you overcome that objection to your proposal of a dual or hybrid set of standards?

Mr Trudell: We had very grave concerns with the new standard and I think we started from there. What we tried to do was look at what would happen, for instance, if a lawyer was being disciplined by the law society. We felt it seems, although it does not seem to be carved anywhere, that if you are dealing with a quasi-criminal type of allegation, the proof is probably of a higher standard than it would be if it were a rather minor infraction. If we had to err on the side of anything here, I think we would submit that proof beyond a reasonable doubt ought to be the norm.

The Chair: Mr Kormos, if your colleague wants to ask any questions, there are about two minutes left.

Mr Philip: No, none; carry on.

Mr Kormos: I already told Mr Philip that he was squeezed out of this one. Now that you have used up 30 seconds we are going to have to go for eight.

Interjection.

Mr Kormos: Mr Chairman, can you not keep this man in check?

The Chair: Is it your suggestion that the Chair use zero tolerance with the members of the committee?

Mr Kormos: Getting back to that, of course the complaint from civilians who feel aggrieved is that they do not have the resources to develop a case in the same way that the police force can develop a case against an accused. As you well know, civilians are going to say: "Come off it. To set a standard of proof beyond a reasonable doubt when it is me, Jane Citizen or Joe Citizen, doing the legwork is an impossible task for that person to achieve." Yet at the same time, of course, it creates a very low standard of proof. So how do you approach that? As you well know, the standard proposed was one which attempted to balance those two interests, attempted to walk down the middle. How do you respond to that?

1650

Mr Trudell: Sometimes I have difficulty, and I have been doing it for about 16 years, convincing a court of what proof beyond a reasonable doubt is. I wonder how difficult it would be to now introduce clear and convincing evidence. I understand the reason for the balance, but it is my respectful submission that when you are into that situation there has to be a balance between the police officer's right, who is going to be found that he may have committed a serious act, and the citizen's right to have it presented.

Ms Fairburn: Just with regard to the clear and convincing evidence burden. I think perhaps that is even a more difficult onus in the sense that no one knows what that burden is in Canadian law yet. There is no case law on that point at all.

Mr Kormos: I have one final query, and that is with respect to Mr Runciman's concern about the police officer and any restrictions the police officer might have on using his firearm. I do not think there is anybody here who does not feel sympathy with the police officer in the scenario Mr Runciman describes. If a police officer is going to have to record each time that he or she draws his or her revolver on the occurrence report—really, that occurrence report is simply a matter of checking a box or filling out a notation, so the critics say. "Whoa, more paper work," when the occurrence report has to be filled out anyway—if that has to be done, really could it not be a matter of—just as, as you well know, there are some police officers who in a whole career laid maybe one charge—

The Chair: You indicated it would be a brief question.

Mr Kormos: I am just wrapping up, Mr Chairman—laid maybe one charge of assault and there are other police officers who are laying them every week. Could that not really be a matter of a supervisor to use as, let's say, a red flag to indicate there being a need for some investigation and perhaps some training if a police officer were drawing his revolver too often, just as when a police officer is involved in physical altercations too often?

Mr Trudell: We just think it is safer to err on the side of making it standard right across the board as opposed to leaving it to an officer to single out one. It is a very simple matter to tick off the box. They have to tick off lots of other things, and I think it goes without saying that the Criminal Lawyers' Association respects the difficult job the police officer may have, as Mr Runciman presented. That is certainly a universal statement.

The Chair: Thank you very much on behalf of the committee, Mr Trudell and Ms Fairburn, for your recommendations and comments this afternoon. I am sure your comments will be useful in the deliberations of the committee later on.

Our next presenter is Hugh Evelyn. Is Mr Evelyn present?

Interjection: I do not think he is yet.

REGIONAL MUNICIPALITY OF PEEL

The Chair: If Mr Evelyn is not here, I will then call on the chairman of the regional municipality of Peel, Frank Bean, and Michael Garrett, chief administrative officer. Please come forward. The clerk is passing a brief around for members of the committee and the public.

Chairman Bean: I am pleased to have the opportunity to be here to present today. As you said, I have with me Mike Garrett, who is our chief administrative officer, and Kent Gillespie, who is our senior solicitor. I may be joined by Bob Richards, who is in transit.

If I can direct you to my opening remarks, I just want to make some brief remarks—I know you are running late—to allow ample time for questions, which I think might be more productive.

As you know, the existing Police Act has remained substantially unchanged for over 40 years. The introduction of the new Police Services Act can be viewed as an opportunity to reform and amend the legislation which will govern police services for perhaps an equally long time in the future. For this reason it is important that the bill receive careful consideration and that there be time and opportunity to consider comments from all interested parties. We hope that the apparent urgency to pass the bill will not result in our concerns being ignored.

Bill 107 as presently drafted achieves, we believe, some valuable objectives in relation to the provision of police services. They include the implementation of employment equity plans, a province-wide system for dealing with public complaints, provisions dealing with labour relations matters, disciplinary proceedings, the expansion of the powers of the Lieutenant Governor in Council to make regulations with respect to standards of police services and also the administration and operation of police forces and other police activities.

Other interested parties may wish to comment and have indeed commented with respect to many of those provisions. It is not my intention to make comments on those matters today. I would like rather to focus on one of the fundamental underlying principles of democratic government which has not been adequately addressed or reflected in the provisions of the act. That is the principle of accountability to the electorate for the cost of police services.

It is interesting to note that section 1 of the bill contains a declaration of six principles. Principle 6 is, "The need to ensure that police forces are representative of the communities they serve."

In our democratic society, one of the ways in which that representation is ensured is through the process of democratic election. To some extent the existing Police Act and Bill 107 recognize that need for representation by providing for the appointment of democratically elected representatives of the municipal council to the local police boards.

The region's interest in the rules relating to appointment to police boards is important to the extent that they relate to the need to ensure that police forces are fiscally accountable to the communities they serve, the people who bear the major burden of the cost.

The taxpayers of my region are paying for 83% of the police budget through municipal taxes. The 1990 current police budget is \$94,225,310. The municipal taxpayers are carrying \$78,207,000 plus the cost of the board of commissioners of

police at \$350,630, for a total of \$78,557,637. This represents 54% of the regional tax bill. Taxpayers expect and deserve to have the people who are responsible for levying that tax on them democratically accountable to them.

I would suggest that the entanglement of the extensive provincial control and the municipal financial obligation which is perpetuated in the bill leaves no one ultimately accountable. The bill does not require the police board to participate in the budget-setting process in the same manner as the agencies and departments which are responsible for other important services that are funded through regional taxes. Although there may be co-operation in this regard, the bill simply requires presentation of the police budget. Disputes are arbitrated by the Ontario Civilian Commission on Police Services, which replaces the Ontario Police Commission.

The idea of giving a provincially appointed body the ultimate authority to set police budgets and thereby set over half of the regional tax levy is in fundamental conflict with the theory of representational democracy. Let me underline this to make sure we are clear.

You would have the Ontario civilian commission have the final say in our budget's bottom line, a budget that taxpayers already say is too high. The power to tax our citizens is clearly a legislative function. It is not a judicial or quasi-judicial function. It belongs to the people, not to bureaucrats and not to non-elected appointees.

If the Solicitor General is concerned about any decisions on budgets which adversely impact the level of police services, the bill provides ample authority to make regulations to set standards. The bill makes the Ontario Civilian Commission on Police Services the branch of the government which enforces those standards at the request of the Solicitor General and settles disputes as to when those standards have been met. But the Ontario Civilian Commission on Police Services should not also be a legislative body directly or indirectly setting service levels.

1700

In Peel we have been fortunate to have excellent co-operation from our police board in the budget process, not just this year but for many years. I am not making these remarks as a result of any problems with our board; quite the contrary. Also, it must be made clear that our concerns are not related to the day-to-day operation and management of our police force or the policies adopted by our police board in so far as they do not materially affect the budget.

There must be sufficient safeguards to ensure fair and effective enforcement of the law. The region takes the position that its recommendations, together with the other provisions of Bill 107 dealing with the investigation and monitoring of police activities by the Ontario Civilian Commission on Police Services and the Solicitor General, provide, we feel, sufficient safeguards in this respect.

The region of Peel is not asking for the elimination of police boards. The time commitment required of board members is growing as a result of the growth of our communities and the number and complexity of issues which must be faced. Indeed, a retiring police commissioner in Peel and a past chairman of the board has tabled with my council a letter asking us to consider a full-time chairman of the board, a request I personally believe deserves careful consideration.

Special purpose bodies or committees are often able to dedicate more time and energy to the task than the full council of a regional government, but this is no reason to continue to

deny majority democratic representation. Provincial appointees may have the best of intentions, but they do not represent the communities they serve. They have not been elected by them. If they represent anyone, it is the Solicitor General who appoints them. This structure is not conducive to the building of public confidence that the police are representative and responsive to the communities they serve.

In addition, the bill takes away a right which the regional government has held in my region for 16 years, and that is the necessity for a regional councillor to be present for a quorum of the board. Your bill amends the regional acts to remove this right, a right I have now. At the formation of regional government, this right to form quorum was expressly given to the region. It is one of the only vestiges of accountability to the elected council, which has now been taken away.

I would submit there is no convincing reason to make this change. The ability of regions under the bill to expand their boards to seven members will help to cure any problems in this regard. You will recall, minister, that Peel was adamant that we should be able to expand our board to seven members, and I appreciate that the new act gives us that ability.

As long as police forces are meeting the standards of procedures and conduct and have the equipment, training and facilities required by provincial standards, all other allocations of resources must be left in the hands of elected officials.

The proportion of regional taxes for police services has risen to the point where taxpayers could well be moved to object that this is taxation without representation. It should not continue. This is why we urge you to adopt the recommendations contained in the resolution of Peel regional council, all of which are contained in our brief in total.

With those opening remarks, I would hold myself and my colleagues available for questions.

The Chair: Thank you. Mr Philip, there are about eight minutes.

Mr Philip: I think the message you are trying to convey to this committee is that the major decisions are going to be made by people you have no control over, but yet you are elected and you are held responsible for paying the bills.

Chairman Bean: That is exactly right.

Mr Philip: Is that a fairly good summary of your main point?

Chairman Bean: That is a fair précis, yes.

Mr Philip: And this is undemocratic?

Chairman Bean: It would seem to be.

Mr Philip: It seems to me also that it is fairly undemocratic that the major considerations that are going to affect your police force are in fact contained in section 133 of the bill, which is the regulatory section, and that you have not been provided, nor has this committee been provided, with any of the regulations, but the major decisions are going to be made by the Solicitor General behind closed doors without, supposedly, any input from either you or members of this committee. Would you agree?

Chairman Bean: I would agree.

Mr Philip: I want to ask you a question about the need for at least certain things that would be uniform throughout the province. I know that you have a large population of visible minority citizens. In the case of the Metropolitan Toronto they

have certainly affirmed the right of members of the Sikh community to wear the five Ks as police officers. Do you have a similar rule or dress code in Peel?

Chairman Bean: Yes. I am not on police commission, but I think I can tell you that they have dealt with that position in Peel and it is similar to Metro's. They have the ability to wear a kirpan.

Mr Philip: That is what I was referring to. Does it make sense to you that Metro Toronto and Peel, as has the federal government, have developed standards to protect the rights of people who wish to be police officers to wear the turban, and yet it is not spelled out in this statute so that at least that same right would be protected in all municipalities?

Chairman Bean: It is not a question I have put my mind to, sir, but it would seem to make some sense. Metro has dealt with it. We have dealt with it. But I might argue then that maybe you are putting it back to taking decision-making away from municipalities or police commissions, and school boards which is another issue. My police commission felt no problem with it and Metro did not. Whether it is enacted in legislation or whether the municipalities follow the leadership of the larger—it is not a question I have given some thought to, but I could agree with your logic.

Mr Philip: There is the other area that is not spelled out in this in any way, contrary to the task force that the government spent a considerable amount of money on, probably wisely spent because I think it is an excellent and interesting report. Mr Lewis's report, and that is the recruitment of police officers from visible minorities and the need for employment equity programs. I recognize that you probably have an employment equity program. Do you have deadlines and dates or specific criteria to handle that?

Chairman Bean: I think I will yield to my chief administrative officer. We do have both at the commission and in the region of Peel, other than the police force. Maybe I will pass that to him.

Mr Garrett: In the region of Peel we do not have specific targets, but council has directed that we monitor on a regular basis the makeup of the population within the municipality as a whole, and that information is used from time to time vis-à-vis the makeup of the staff within the region itself. So the politicians, the council have regard in fact for the makeup of the community and how that compares to the staff. When we report on a regular basis on those statistics, the region itself is not doing badly and is moving in terms of reflecting the community at large.

Chairman Bean: Let me add, Mr Philip, that as far as the police force is concerned—in anticipation of your question, I did some research on that—I find that in Peel, without quotas but making it available, our ratio I think can be stacked against any other police force's. We would rate very highly. In Peel they believe and I believe that it seems to be working well.

Mr Philip: Does it makes some sense to have some provincial or central guidelines so that all municipalities at least know that there are certain standards? You say that you are successful.

Chairman Bean: I guess what I am saying is that I do not believe in quotas on police forces or really in any other, because you then work towards reverse discrimination. As you know, Mrs Marland, two officers in Peel, one of whom was Inspector

Chris O'Toole, were the authors of a race relations book. They have spent a lot of time at it and it seems to be working. So I think there should be some incentives for the municipalities to do so.

Mr Philip: Let me ask you a question on a different topic, because I would love to ask you how it is working and ask you for numbers and things like that but I do not want to take up the time at this point in time.

Chairman Bean: Maybe we could do that another time.

1710

Mr Philip: If I go to the Ontario Human Rights Commission with a problem, or indeed if the human rights commission spots a problem, it has the right to do an independent audit. If the Ombudsman spots a problem, he or she has the right to do an independent audit. Does it not strike you as somewhat strange that these two ombudsmen have the right to do independent audits on their own initiative, yet the public complaints commissioner, who is another form of Ombudsman, does not have that right?

Chairman Bean: That would seem logical.

Mr Philip: And you would not be in any way fearful of giving the public complaints commissioner the right to audit? We had the example of the media talking quite a lot in their presentation about the results of their investigations into some atrocities that have happened where the police have not laid appropriate charges against people for child abuse and so forth or where people have been unfortunately charged inappropriately through inadequate or inappropriate investigations. In your opinion, would it give an extra safeguard to have the right of audit in special circumstances where there seems to be a need for it?

Chairman Bean: It seems to me that it should be clearly defined, and I would agree with your logic.

Mrs Marland: I wondered whether Chairman Bean or Mr Garrett had the benefit of knowing or seeing the opening statement of the Solicitor General to this committee. I was just trying to locate my copy and I cannot. In his opening comments to the committee, the Solicitor General addressed the subject of a central recruiting unit for police officers in the province.

I wonder whether that was an area that had been brought to the attention of Peel and whether you had any opportunity to discuss it. If you have not, I have another question, but I just wondered if you would have a concern with a central recruiting unit that would be selecting officers not based on the standards or requirements of the local police force.

Chairman Bean: First of all, I did not have the opportunity to hear it. It might be a good question to direct to the police commission, which is appearing tomorrow. My quick analysis of your question is that frankly, I think in Peel we are doing better than most. I would be hesitant to dilute that by having it melded and blended into other jurisdictions.

Mrs Marland: Or having a central recruiting unit which established the standards which may not be what we in Peel are willing to pay for?

Chairman Bean: That is exactly my point. I do not think anything in Peel would improve by doing so.

Mrs Marland: Could we talk a little bit more about the fact that we are looking at a provincially appointed body that

has the ultimate authority, therefore losing the control of the local municipality in terms of its budgets, and in our case, as you pointed out very well, over half our regional levy?

The irony I see here is that we now have a Ministry of Municipal Affairs which is taking over the planning of our municipalities through the implications of Bill 128. As Mayor McCallion has said, our planning and zoning bylaws have now gone out the window. I said, "Well, never mind. We still will need municipal governments because we have policing, social services and other health responsibilities."

Is it possible that with Bill 107 we may even be losing control over the local democratic system in terms of what standard of policing the local residents are willing to pay? I too agree that in Peel we have a very high standard of policing.

Chairman Bean: I think that is my point. The risk is there. It has not happened in Peel. I hope it does not happen in Peel, but of course the risk is there. It is that risk that makes me fearful.

Mrs Marland: Is it that risk that makes you fearful a quorum would be permitted without an elected representative at the meeting?

Chairman Bean: That is the other point I make. The way it is currently under the Peel act, one of us has to be there to have a quorum. As I say, under the new act that is taken away. Obviously, I would say to you to start with, I believe we should have the majority. Failing that, at least we should be representative, because that underlines the point I make, that those decisions could be made by provincially appointed people without the elected people there even in attendance.

Mrs Marland: Could I ask Bob Richards, our commissioner of finance—

Chairman Bean: I should introduce Mr Richards. He is our treasurer at committees and he got tied up.

Mrs Marland: We did start early, Bob, so do not panic. Have you had an opportunity to consider the cost implications of Bill 107?

Mr Richards: It is difficult from the act to know what the actual additional taxes, if any, would mean.

Mrs Marland: Because we do not have the regulations?

Mr Richards: That is right. I guess an offhand comment would be that we probably will have a smaller police headquarters. It seems that a lot of the administrative functions will be handled perhaps outside of our police headquarters.

Mr Philip: Are you saying that will save you money?

Mr Richards: If the administrative functions are not going to be centralized in the Peel police headquarters, they will be elsewhere. So, if anything, the potential cost savings will be the size of our headquarters. In terms of what might happen regarding police standards, numbers of police officers, we added in Peel last year 197 police officers. This year we added 70 to meet what we thought were Peel standards of policing. It is difficult to know, given what we have in front of us, how that might be changed, if at all.

Mrs Marland: Given the fact that it is the local jurisdiction that knows best its local responsibilities through knowing its local municipalities, you might be interested to know that the towns of Exeter and Harriston also demonstrated through resolutions that they have passed that they share the concern

about losing control over the budgets and that area of responsibility.

Mr Richards: I think the chairman's number of 54% of our tax budget being police says it all. I think the chairman has said that we feel it is a municipal responsibility to deliver the policing. In the Peel submission, it is a large chunk of our budget to be taken away from direct municipal control, especially when so many other elements of our budget are subsidizable to a heavy extent and in fact the provincial dog wags the municipal tail.

Our thrust here and in other forums has been to try to disentangle, to try to set up clear areas of responsibility with municipalities focusing on what they do best, which is providing municipal services. We see Bill 107 as a step away from that disentanglement; in fact, commingling and blurring the lines of responsibility. At the bottom line of it all, we are not sure that is good government.

Mrs Marland: As I know, the residents in Peel have said they would like to see more police officers out of the cars and on to the sidewalks. If there are other areas of interest in styles of policing that work in that local municipality, if the local municipality did not make the right decision in terms of policing styles through their elected members to their boards of commission, there is a very easy way for them to make that concern known at the next election.

Mr Richards: That is right. I think Mr Philip's point was an excellent one in terms of a provincial audit. We may go so far as to say that if the province wanted to devolve more control of police to the municipalities that wanted the ability to come in and audit to make sure that we are adhering to all safety standards, for example, we would be prepared to pay for that audit on a user-fee basis. I do not think there is anything wrong with having a provincial oversight but, as you said, if we do a lousy job policing, our politicians will lose their jobs.

Chairman Bean: I guess the other point Mrs Marland has is if the complaints come into us and we are hampered by the bill as it now reads, I will refer the complaints to local MPPs, with great respect, including you.

Mr Polsinelli: And you are well represented.

1720

Mr Dietsch: I have a couple of very short questions that require short answers.

Chairman Bean: I get the message.

Mr Dietsch: In my experience with regional government—and I am not sure that the same holds true in Peel, but I would like to find out—in Peel, as I understand it, the region has been paying an ongoing, fairly substantial portion of the police budget. For how long a period of time? Since its inception?

Chairman Bean: Since the beginning of 1974, the beginning of regional government in Peel.

Mr Dietsch: So all the way through. Has it always been the kind of percentage that it is currently?

Chairman Bean: I guess we could argue whether the percentage has changed. We complained about certain parts of policing in the courts, and I could get into specific issues; but to have a short answer, which is what you are looking for, I would say to you that in Peel we have been able to work closely with

the commission and come up with what we think is a reasonable budget and to our standards. But we are concerned that this bill today is going to take some of that right away from us; that is the risk.

Mr Dietsch: In relation to trying to understand your position, is it your view that regional government should have the same kind of control over the police budget that it does over any other department budget?

Chairman Bean: Subject to the standards—obviously the province and the Solicitor General have to have some minimum standards—we believe we would provide more than that. One other thing—we talked about police headquarters. As to what the next divisional building might look like, it may well not look like number 11 or number 12 or anything we have there now. We should have more control over that, as long as we are not taking anything away from the standards of a policeman to operate efficiently. That is my point.

Mr Dietsch: Have you ever appealed your police budget now?

Chairman Bean: No, we have not. I would make that point. They have never taken us to the police commission and we have been able to negotiate and have discussions with them. It has worked well.

Mr Dietsch: I guess I am trying to look at it from the other side as well. In your particular case, if there were standards set and then the dispute became over the standards, the argument as to whether the standards are being delivered or not, would it be that the police commission or the police board of commissioners then would be taking the regional government to the dispute over the budget amount?

Chairman Bean: Obviously, there have to be some guidelines which would allow certain standards to be in place. If the regional government did not approve that part of the budget, it would have the right to appeal that as it does now. It has to have some rights that way. But I am saying we as the tax collectors have to have more rights. Certainly the cosmetic or other parts of the budget should not be under the purview just of the commission. It should be coming over like any other department, I would suggest, as far as that goes.

Mr Dietsch: Then you would not mind if the local municipality that collects the regional mill rate and the school mill rate would have the same kind of authority over its budget.

Chairman Bean: Are you talking about dismantling regional government?

Mr Dietsch: No, I am asking you the question. Obviously you do not mind the accountability process being passed right on down.

Chairman Bean: They do now. Obviously, sure.

Mr McClelland: I know you have never brought a complaint to me without some very helpful suggestions, Chairman Bean. Any complaints that may ensue, I know you will do so with considerable help. I want to add parenthetically, from what my friend Mrs Marland said, that I think it would be wise to look carefully at section 41 of the proposed act, to look at the duties of the chief of police in terms of the day-to-day operation of the force.

I think we have to be clear, when we are talking about the delineation of powers and responsibilities, that we do not lose sight of the fact that virtually all of the day-to-day operations of

the police force, to use an example you gave, Mrs Marland, I believe, would fall clearly under section 41, which is the duty of the police.

Chairman Bean: Is your question, "Don't you agree?"

Mr McClelland: No, I am just saying that parenthetically as a statement. What I want to get to is on the bottom of page 6 and the top of page 7 of your brief. You are an individual, quite frankly, and I do not say this in a patronizing sense, who is always, I think, very reasoned and judicious in what he says. I find it a little bit unusual that you would make a statement as strong as saying:

"Provincial appointees may have the best of intentions, but they do not represent the communities they serve. They have not been elected by them. If they represent anyone, it is the Solicitor General, who appoints them. This structure is not conducive to the building of public confidence that the police are representative and responsive to the communities they serve."

It seems to me from our experience certainly in Peel, and we will limit it to that for the time being for purposes of discussion, that in fact the provincial appointees have effectively and ably represented the community and ultimately there is an accountability process. I say this not in an offhand way, but in all sincerity: I look at the service that you have provided to our community and one could argue that having been elected only by the body of council that then appoints you as chairman, if one were to extrapolate that argument, you could say that in fact is not representative of the community.

Surely the fact that an individual is represented in good faith in and of a community to sit on a board, because he is not directly accountable by ballot, does not preclude good community representation. I do not think you are saying that, although I would like you to expand on that somewhat.

Chairman Bean: I am glad you are giving me the opportunity because I have some trouble agreeing with you, which is not usual for me with you.

If citizens have a complaint about the cost of policing, as an example, they can take it to their elected member who sits on the police commission. I have two, and hopefully I am going to have three. One I have was the mayor of Brampton and now is Councillor Andrews, as you know, and the other is Councillor Mullin from Mississauga, who has been there for a long time. They are directly accountable because they are directly elected by the people.

I am going to have to explain this question to the police commission in Peel which may ask me the same thing when I have to appear before it. While they are very good people and I am not complaining about the kind of representation the province has given us in its appointees, in actual fact the chairman of the board or any other provincial member is not accountable to the public. If there is any complaint to them, they would say: "I was appointed by the province. If you don't like what I'm doing, phone my MPP. Don't phone me." I guess you are saying the accountability of the provincial members is through you and the councillors through me. I have trouble with that.

Again, it is our budget and you want to assume some of the responsibility of the province for your members. That is still interfering with my budget, with great respect. I do not have any comfort level where the provincial members across the province, excluding Peel, where everything is wonderful, should be responding to complaints from the public on police. That is not your job. It is our job. I say complaints about budget

should go to the people who set the budget. That is my council. It is not you and it is not the people you appoint.

Mr McClelland: I see a problem in that and I do not want to enjoin a detailed argument here. Mr Polsinelli has a supplementary to this that he wants to put to you.

It seems to me that what we are doing here is narrowing the focus very much to the issue of cost in dollars and cents. Policing surely is much, much more than that. The role of the members of the board surely cannot be confined to just a dollars-and-cents process, and I understand what you are saying with respect to the financial implications.

Surely there is a balance there in terms of the duties that are reposed in the office of the Solicitor General, concurrent with the responsibility, and I would say privilege, to work with the appointment at the local level. I need some help on that, if I can get it.

Chairman Bean: I do not disagree with that. You made the point before about the police chief. No one should interfere with the police chief and his mandated ability to do his job as chief of police to manage his force. I believe that, and no one should interfere with the police commission in those kinds of activities. I am homing in here on financial responsibility because it is a large part of our budget. All I want is equal opportunity with that budget. I would like the majority of members. That would be my first choice. My second choice is I would like it even. If you are not going to give me that either, then I would at least like to be there to be in quorum. If you take that away, I guess people could stay home.

Mr McClelland: I understand that. I just wanted to make sure.

Chairman Bean: I have no difficulty with what else you are saying.

The Chair: If I can interject just for a minute, we have used up all our allotted time, but what I would suggest doing is permitting each party another two or three minutes because I do believe we have the time to do so. I will ask Mr Polsinelli to proceed first.

1730

Mr Polsinelli: You have indicated that you work very well with your existing police commission.

Chairman Bean: That is exactly right.

Mr Polsinelli: You do not have any problem striking budgets with them? You have a very co-operative, understanding relationship?

Chairman Bean: We have worked through the years to find a process where they work closely with us. I am saying there is a risk, and the budgets get heavier every year.

Mr Polsinelli: But it has worked well.

Chairman Bean: It has worked well, but the new act today is taking away some things I have got now. It has worked well now.

Mr Polsinelli: Hold on. I mean, the existing system works well, right?

Chairman Bean: That is right.

Mr Polsinelli: The existing system has five members?

Chairman Bean: Five members.

Mr Polsinelli: Three are provincial appointees?

Chairman Bean: That is right.

Mr Polsinelli: And two are municipal appointees?

Chairman Bean: Exactly.

Mr Polsinelli: The new system will have seven members; four will be provincial and three municipal?

Chairman Bean: The new system would give me that option to apply for, which of course I will, and that would be four provincial and three municipal, yes.

Mr Polsinelli: So in terms of whether the majority is appointed by the province or is appointed by the municipality, that is not going to change.

Chairman Bean: It is going to change if one of my three is not there and they have a quorum without him.

Mr Polsinelli: That is going to change, but in terms of who has the majority, they had the majority before and they will have the majority after.

Chairman Bean: That is not going to change. In 11 years I have been down through many solicitors general and nothing changes. You are right.

Mr Polsinelli: In terms of who your municipal appointees are going to be, right now has Peel had a practice of appointing municipal councillors to the board?

Chairman Bean: That is right. Traditionally in Peel, because I have three municipalities, Mississauga, Brampton and Caledon—

Mr Polsinelli: I did not mean Peel; I meant the region of Peel.

Chairman Bean: That is what I am saying, the region of Peel. You are asking, how do we appoint our two?

Mr Polsinelli: No, my question is, do you have a tradition of appointing municipal councillors to the board?

Chairman Bean: Oh yes, always. Under our act it has to be a councillor or indeed the chairman. It has to be a member of council.

Mr Polsinelli: I was not familiar with your act, but that is fine.

Chairman Bean: We traditionally take one from Mississauga and one from Brampton. Caledon is policed by the OPP.

Mr Polsinelli: That is fine. That is all I want to know.

Mr Philip: I guess the concern I have is not just that you are not appointing them and therefore you as an elected local regional representative are not being responsible. We had an incident in the House today in which the Minister of Tourism and Recreation said that having appointed the Ottawa Congress Centre board, therefore it was a completely autonomous board and he did not have to take responsibility for an act he said he disapproved of, namely, using the funds from that crown corporation for partisan political purposes. I really wonder then if some of these people who are appointed are in fact responsible to anybody. If the minister says, "Having appointed them, I don't have the responsibility to fire them if they act inappropriately, even if I personally believe they acted inappropriately," and if they can go out and make statements that are objectionable to the public and, I suppose, to the people

who would throw them out of office if they had an opportunity to, but they are not, then who are they responsible to?

Chairman Bean: I understand your question. In my brief, I said they were responsible to no one but the Solicitor General. I believe that the Solicitor General should have the ability to remove police commissioners. Indeed, if the Solicitor General were to say to me, "I want one there to have a quorum," and we look at the example of the city of York recently where there was a boycott of council and there is a risk of a boycott of the police commission, I would say the Solicitor General should have the opportunity and the authority to move in and fire police commissioners if they are not doing their job. I do not think we should run the risk of running amok. So I believe the Solicitor General, the government, should have that ability to make sure things function well, including firing police commissioners who indeed may be regional councillors.

Mr Philip: So your option would be that the regional council should appoint a majority and should be able to fire them, and indeed should fire them if they are not doing their job correctly, and that in the case of provincial appointees, if there are any—and of course they are a majority under this act—

Chairman Bean: I would go beyond that. I agree with what you are saying. I am saying also, though, that if our members, for whatever reason, decided not to do their duties properly, like boycott a meeting, the Solicitor General might say, "I don't want you to have that opportunity." I agree that he has to have some safeguards, so I would agree with you that he should have the ability to fire not only provincial appointees, but he should say to the regional council, "I'm firing that regional appointee" if he is not doing his job, to safeguard boycotts.

Mr Philip: So he would have the same power as, say, the Minister of Community and Social Services has over the children's aid societies—

Chairman Bean: Yes, that is a good analogy.

Mr Philip: —so he could in fact put them under trusteeship or something or other.

Chairman Bean: Or possibly remove offending members, not the whole board. I would think he should have the ability, subject obviously to some guidelines.

The Chair: Thank you, Mr Philip. We do have some other business. Mrs Marland, did you have an additional question or two?

Mrs Marland: Yes, thank you, I do. Frank, perhaps you heard me ask the previous delegation about its recommendation that in camera meetings of the board be approved by the Solicitor General in advance by written reasons being provided. That obviously is a serious recommendation on the part of the Criminal Lawyers' Association. I have no way of knowing what the Solicitor General's response to it would be, but does that sound as ludicrous to you as it does to me?

Chairman Bean: As you know, from having sat on our council—

Mrs Marland: And you have also sat on the commission.

Chairman Bean: That is exactly right, I sat on the commission. As you as a member of regional council would know, there are strict guidelines as to when we can be in camera. I would suggest there should be strict guidelines as to when the police commission should be there, but it should have the

ability to do it, as it is doing now. I have no understanding for the recommendation of the previous submission.

Mrs Marland: Are there any other major concerns that you have with the act that you have not been able to address in a short brief?

Chairman Bean: No, I think it has been a long time coming. I know my colleague Gary Herrema has worked on the committee. My colleague Peter Pomeroy was here, and we are compatible with his brief. I have some understanding of what the minister is trying to do and there are some good parts in the brief, as I suggest. So subject to the changes that are there in my brief comments and long answers and the rest of the region's resolutions, I think that covers the points we want to make.

The Chair: I want to thank you, Mr Bean, and your colleagues on behalf of the committee for sharing your recommendations and comments with us. I know they will be useful to us in our deliberations later on.

COMMITTEE BUDGET

The Chair: The next item of business on the committee agenda is consideration of the budget for 1990-91. We previously submitted, yesterday, a draft budget for the next year. I would just briefly ask the clerk, Mr Arnott, to make some comments on it and perhaps relate the changes from last year and any particular provisions that we have included in this year's budget that need some comment or discussion.

Clerk of the Committee: Last year's committee budget was lower than this year's and was underexpended. Nevertheless, this is basically the same budget as last year, providing for four weeks of hearings at Queen's Park and elsewhere in Ontario if there is provision by the House for the committee to travel.

The key changes that result in a large increase in the budget over last year are the following:

First, the standing orders were changed last fall and provide for full Hansard to be provided. This means that a good deal more equipment has to be transported when the committee goes on the road. As well, the committee budget should provide for staff who are required to travel. Therefore, the number of staff travelling outside of Queen's Park has been increased from two to nine.

Mr Polsinelli: Would you explain that?

Clerk of the Committee: Yes. The staff travelling with the committee would be from Hansard—reporters—and from broadcast and recording service; that would be technicians to set up and to record. Certainly committees that have been travelling outside of Queen's Park since last fall or over the previous summer and that had full Hansard service had those numbers of staff travelling, and their budgets have provided for that.

The second cause of change was the application of the French Language Services Act to committees of the Legislature as of last fall, so now important committee reports of public interest will also be translated and published simultaneously in English and French at the discretion of each committee. Therefore, this budget provides for an allowance for translation.

Finally, this committee's hearings currently on Bill 107 and the task force report were widely advertised and the committee provided, in its approval of the subcommittee report yesterday, for an increase in the amount for witness fees from that which is shown in the budget distributed to you. That increase yesterday was from \$10,000 to \$25,000. So the actual amount you are voting on today would be \$257,566 for the coming fiscal year.

Mr Philip: There are a number of items here that are discretionary, but these discretionary items, if they are not accounted for, put the Chair of this committee in a very difficult situation. My suspicion is that the committee will not spend all of this money, but from what I can see it is a very realistic budget. In the event an election was not called for September and the committee was sitting the number of days that is possible and was dealing with a complicated bill where it was fairly obvious that it needed translation services and Hansard, then the committee Chairman would be put in the very awkward position of having to find the Board of Internal Economy and go back with a supplementary budget. So I think in approving this budget we are saying it probably will not be all that is used, but if you do not approve this budget you may put your Chair in an awkward situation. For that reason, I would move that the budget submitted be approved.

The Chair: Mr Philip moves that the budget as submitted be approved.

Motion agreed to.

The committee adjourned at 1742.

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J-17 1990

J-17 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Wednesday 6 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations and
Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le mercredi 6 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Robert Chiarelli
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Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday 6 June 1990

The committee met at 1607 in room 151.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Acting Chair (Mr Curling): I would like to call the standing committee on administration of justice to order. I will just state the rules before you introduce yourselves. Presenters have 30 minutes in which to present. It is divided up. You could take the entire 30 minutes if you like, but please leave a portion of that for any questions from the members here.

PEEL REGIONAL BOARD OF COMMISSIONERS OF POLICE

The Acting Chair: The first presentation is from the Peel Regional Board of Commissioners of Police. You may introduce yourselves now.

Mr Stewart: My name is Bruce Stewart and to my right is Miles Obradovich, chairman of the Peel Regional Board of Commissioners of Police. Also with me is Mr Button, the secretary to the board. You have in front of you a copy of our submissions. I will first ask Mr Obradovich to say a few words.

Mr Obradovich: I would simply indicate to the committee, and I am sure the committee is aware of this, that Peel is the second largest municipal force and the largest regional force in Ontario. We have a complement of 1,033 uniform officers and a total complement of 1,421 staff members and police a population of 641,000. Mr Stewart will address you on the submissions we wish to make.

Mr Stewart: The way our submission to you is organized, in the first five pages we have set in summary form the recommendations we have. You will be relieved to know that I do not intend to either read the brief or refer to all the recommendations. Some of them are of a very technical nature. I hope that the advisers to the committee will have an opportunity to consider them and report to the committee on them.

I wish rather to take the time to highlight some of the important points. From what I heard in the brief few minutes before we came here, perhaps some of these points have already been made to you by other submitters, and I trust that if the committee has made up its mind at any point and wants to cut me short, it will not hesitate to do so.

I would like to deal with what are relatively technical points, but none the less quite important points in our submission. I want to deal with some of the points dealing with labour relations. They are recommendations 7 and 8 in our summary and they appear at page 15 of our brief, if I could ask the committee to first look at that.

At the present time in Ontario in police association bargaining, and our force is probably very typical of the norm, there are

three sets of bargaining that occur between the police association or the senior officers' association and the board, one covering the uniform members of the force, the second covering the civilian members of the force and the third covering the senior officers. These are officers with the rank of inspector up to, but not including deputy chief. So there are three sets of bargaining. Traditionally it goes on every year, but sometimes you get two-year deals.

What this bill proposes in section 117 is to leave the matter of how many sets of bargaining there are to the determination of the police association. It leaves to the police association the right to divide the force into what are called categories. We do not know what the word "categories" could mean, but we fear that it could mean a balkanization of the force and of the bargaining into several groups.

For example, it could be that the sergeants at any particular time might wish to have an association bargain for them separately from the staff sergeants or the constables, or that some of the other uniform ranks might wish to organize themselves for bargaining in that fashion. Similarly, among the civilian groups there could be a breakdown, as their own interests might dictate that they wanted to pursue a special objective.

In the world outside of policing, we have this problem also under the Labour Relations Act. This Legislature has left it to the Ontario Labour Relations Board to determine what are appropriate bargaining units. In other words, unions and employers just cannot go and form what they think might be a good bargaining unit. Certainly the unions are not given the unilateral power.

We believe the bill as drafted is too broad. It gives the police associations too much power to categorize, to balkanize the bargaining. We are quite prepared to continue the status quo, which is to allow bargaining for civilians, bargaining for uniform members and bargaining for senior officers, but we are very concerned that we could be open to more than those three sets of bargaining. That already is quite a chore.

Obviously our first concern is about the possibility of different interests being pursued in each set of bargaining. It could be that one particular category might wish a certain dental plan and another category would wish another dental plan. There is a real danger of balkanization and fragmentation of policies governing employees. I think it is reasonable that you have a distinction between civilian and uniform, although in the example I gave you there never is in benefits. Once you break it down, you can have different interests being pursued which we think could be very costly and quite disruptive in the long term.

The second reason it concerns us in this matter is that this act and the predecessor act provide for arbitration of disputes. We are concerned that we could be put to quite a lot of expense in bargaining if these various categories of employees had the right to go to arbitration of their collective agreement. So we would like to see the present system remain the way it is. If there are reasons we do not know of to change it, then rather than it being changed at the whim of the police association, we would prefer that it be left, as the labour relations board now does it under the Labour Relations Act, to have it determined either by the Ontario Civilian Commission on Police Services

or the Solicitor General or even the labour relations board. We think there should be some neutral third party to determine these issues.

If there are no questions on this point, I will move to my next point.

Mr Philip: I have some questions, but I think we had better ask all the questions at the end, if you do not mind.

Mr Stewart: The second point also is in the labour relations area. You will find it at the bottom of page 19 and on to pages 20 and 21 of our brief. This deals with the fact that police organizations are more complicated than they were perhaps 20 or 30 years ago. The labour relations function now attracts staff in the same way as it does in any large organization. We have, for example, in this force a director of personnel services and we have at least one senior officer dedicated to the question of employment relations, as well as the labour relations.

We think these persons should be excluded from association bargaining in the same way managerial people under the Labour Relations Act are excluded. As you know, they are excluded for purposes of confidentiality in exercising managerial functions. We ask for the same exclusions to do the bargaining between police associations and the board. We ask for no greater right than that. We have put out amendments to effect that purpose.

The next point I would like to deal with is found on page 26 of our submission. This, and a second point I will make, deals with the increasing difficulty of both the elected members to the police board and the appointed members, particularly on larger boards like the Peel Regional Board of Commissioners of Police, to attend to all their duties.

Under the bill the police board is given the obligation to bargain with the association. The control of the bargaining, obviously, will remain under the control of the board. We are recommending that could be delegated, just like any other management function, to staff to do the bargaining. I do not think it would shock members to know that the chairman of the board or the president of Stelco does not go to the bargaining table with the Steelworkers. He employs a staff. He has a director of industrial relations. Similarly, in larger municipal councils normally now you will find a director of labour relations who does the bargaining. That does not mean the board of directors of Stelco or the council of the municipality has given up its power to control its side of the bargaining; it instructs its people.

We think it would be an advance if at least the boards were given the power. We believe many boards would still continue to have a police commissioner or commissioners on the bargaining committee. Indeed this board might still. But increasingly bargaining is taking up a lot of time. The issues are quite complicated, quite apart from the monetary issues. More and more there is a necessity to have the staff people and persons skilled in labour relations doing the bargaining for the board. So that is one change we see.

To the same end, and this appears on page 30, the board sits, shall we say, on an appeal of police discipline charges under the act. These are disciplinary matters. The board must hear the appeal. Again, we are seeking the power to have a smaller number of board members. In other words, this can be delegated to one or two board members who could hear the appeal on any particular disciplinary matter.

It is for the same purpose. There is a lot of time being taken up by the board members. They have other things to do. It is not yet, as you know, a full-time occupation and it cannot be for the elected members. They have their duties. In our case we have

the mayor of Brampton as one of the members of our police commission. We also have a regional councillor from the region itself who is also in turn a councillor from Mississauga, as I recall.

These are very busy people, as you are. What we are looking at is the power to delegate, where the board thinks it is appropriate, to a smaller group.

1620

I will cover the remaining points, I hope, a little more quickly. I ask you to turn back to summary page 1. We have dealt in detail with some of these points in our brief. If any of them interest you, I will ask you to pursue our full explanation in the brief subsequently.

One of the great changes in this bill as far as the Peel board is concerned—

The Acting Chair: What page did you say this was on?

Mr Stewart: I was looking at page 1, point 1.

There is no doubt that this bill reserves to the government a greater power to regulate the standards of police service. We have no quarrel with that. We recognize that this obviously is the government's overriding responsibility and we do not quarrel with that. We do ask two things.

The first is in point 1, that if the government is going to visit new responsibilities on boards that involve the expenditure of funds, the financial obligation to fund those new obligations be met by the provincial government.

The second is that before any new standard of police service be promulgated through regulation, this board and other boards in the province have an opportunity to put forward their submissions on whatever the recommended standard is. Obviously our board would have a much different view of the matter than, say, a police commission in a northern town site. That is no criticism of that northern town site, obviously. We are all going to have much different perspectives. A large board like the Peel board, with the obligations to police what is largely an urban area now—as you may know, the northern part of our region is policed by the OPP but the southern portion of Peel is entirely policed of course, by this force—has very different requirements. We would like to be heard before any new standard is promulgated. It is that simple.

Recommendations 4, 5 and 6 are technical in nature but let me try to express it this way. The new civilian commission on police services appears to be the enforcement arm of the Solicitor General for any board or any police chief or any police force that is not meeting the standards required. We have no quarrel with that. We would simply ask that no order be made without a hearing. In other words, before a board or a police chief can be required to do something on the allegation that he is not doing something he is expected to do under the act, there be a hearing. It is not at all clear, as we set out in our submission, that this is guaranteed. In some cases it is, but it appears to be on the Solicitor General's fiat at the present time and we do not think that is appropriate.

That also would go with respect to removing members of the board and removing the police chief from his position. We do not believe that should be done by this civilian commission on police services. They are appointed. We would prefer, if any draconian step like that were going to be taken, that it only be taken after a hearing before that commission, and then the Lieutenant Governor in Council who appointed at least some of the members of the board would be the one to remove him.

Those were all the submissions we were going to make on our brief—the rest is fascinating material, I assure you—but it came to our attention late yesterday that there are some proposed amendments to the bill as originally introduced. There are two of them that cause us, frankly, great concern. With your permission, Mr Chairman, I would like to address two of those sections now.

One is section 52. Section 52, you may recall, is the portion dealing with auxiliary police being appointed. There is a new subsection 52(4a) being suggested that states that auxiliary members may only perform their duties when there are not sufficiently numerous police officers to deal with the problem. We have checked this out with our deputy chief and we believe that if this section was promulgated, we could not use our auxiliary police. We always have enough police officers to do what has to be done. The way we would get them is we would require them to come out on overtime. So we would always have sufficiently numerous police officers to do without auxiliaries. That is not the purpose of auxiliaries.

I can put it to you in very human terms. We still want to have a Santa Claus parade in the region of Peel. We still want to have a Bread and Honey Festival. We still want to have a bike-a-thon. All of these crowd events are policed. Certainly our regular police officers are there. They are at the intersections where traffic control is necessary. But also along these routes and at these functions we have auxiliary officers. These are voluntary people—they do not get paid for this—who do it because they are interested in their community, and we think that is a very desirable thing. They are not replacing police officers in any serious sense of the word. They are not out investigating crimes or, without meaning any disrespect, I do not imagine they suppress perpetrators of crime when they see it occurring.

They are simply people who have a uniform. It is clearly marked that they are auxiliary. They are usually younger people in the community who have an interest in policing. I know here in Metropolitan Toronto, where they have been using auxiliary police for quite some time, it has often been a very good means of recruiting people to the police. They do this as a voluntary activity, they find they are interested in policing and they come on.

So we would ask that this section be reviewed again, because it would prevent us from using our auxiliary police as we now plan to.

Similarly, we have concern with section 53, the proposed amendment of subsection 53(3a), which would confine the use of special constables. It says, "A special constable shall not be employed by a police force to perform, on a full-time and permanent basis, all the usual duties of a police officer."

We now use the special constable power in Peel—and I believe this is true throughout Ontario—to assist our court security officers, who are not police officers but civilian employees of the force, to do their court security task. To some extent they are performing the usual duties of a police officer who might have been assigned to court security. It would be very difficult to draw a line between what they do and what a police officer assigned to court security does.

We are troubled. We notice the word "all" there and we realize that would perhaps give a legal argument, but we would like to avoid the necessity of having any argument. We are not aware of police forces in this province—and perhaps we are ignorant of this—abusing this power. We have recently been visited, and I am sure members realize this, with this larger responsibility of providing security in the courts. I think the

complaints are over with now. It is now a fact, and it is there. One of the ways we have done this—it has been done for many years in Peel and in Metro Toronto—is to have court security officers specially trained in court security matters, quasi-police personnel. We are concerned that this might lead to unnecessary disputes.

I have not used up all of my time, but almost all, so that concludes our remarks. We would be pleased to try to answer any questions the committee members might have.

1630

The Acting Chair: Before I ask Mr Philip for his first question, we have about 10 minutes left on your time—you took 20 minutes—so we will divide it up, if we can stretch it, in the manner of four minutes on each side.

Mr Philip: You make some very interesting points. I certainly will want to hear from the police association as to its justification if it does support some of the personnel changes that are being put in here.

The second point you make, and I guess it relates to the first point as well, is that with this act you are going to have new responsibilities, probably in the field of training and probably in other areas that are covered under this great list of regulations that cover everything from uniforms to you name it, all the criteria for judging complaints and so forth.

I guess my concern about section 133 is, would you agree with me that the major decisions that are really going to affect you are not contained in this bill at all, they are contained in the regulations? You have not seen the regulations, I have not seen the regulations, and under recommendation 2 you are saying you would like to see them and be able to make comment and have input before they become law, and not just have something in the back room of the Solicitor General with his advisers deciding what is good for us.

Mr Stewart: We would certainly like to have the opportunity to make submissions. I should have said, and I apologize for not saying it, that up to now the Peel board feels that it has always been given the opportunity by this administration and previous administrations to put its views across. We recognize, however, that, as you said, there is a much greater power in this bill. Therefore, we would feel more comfortable, given that greater power, seeing enshrined in the act the fact that we would have access before the new standards are promulgated.

Mr Philip: There are so many questions I would like to ask based on your presentation, but I want to ask you one based on your experience. In Peel you have come down with uniform standards that allow people of different religious persuasions to adhere to those religious persuasions, namely, the wearing of the five Ks. Have you experienced any difficulty as a result of passing what would be called, pardon the expression from a New Democrat, a more liberal attitude towards uniforming?

Miss Roberts: Small "I," very small.

Mr Philip: A very small "I," my more conservative Liberal colleagues say. Should this be in the act so that religious freedom as a police officer is safeguarded throughout the province?

Mr Obradovich: We have had no difficulty with our policy. There was public discussion and debate at the time when it was first introduced last year, and there were amendments to it this year. Not one officer of Sikh origin on the force, however, has elected to take the option under the policy to fully

wear orthodox dress. But we do have that policy in effect and we use it in our recruiting efforts. We have not had any trouble, but again, we have not actually had someone on the force. We do not think there should be any problems that arise.

Mr Mahoney: I know you are pressed, Mr Chairman, so I will try to be brief.

I know Mrs Marland would agree with me that we fought for many years to get auxiliary police in Peel and are delighted to see them there and functioning so well in the areas you mentioned. I would hope that we could get a response on your concern over subsection 52(4a) as an amendment from the Solicitor General to try to address that concern, because I think we would want you to be able to carry on with the auxiliary police.

On the bargaining process, though, I think Mr Philip touched a little on your bargaining unit problem, but I would like to talk about the process and the time that you are concerned about the commissioners having. I understand how busy they are. I am a little surprised that you would not simply do your bargaining through a process that I am quite familiar with in my years at the city of Mississauga where you would have human relations staff who would do the majority of the bargaining and then bring it to you as an approval body.

Mr Stewart: That is what we want. We cannot do that. Under the current act, in fairness, and under the proposed bill, the bargaining committee must be a committee of the board, and that means with a police commissioner on it. I have encountered situations where police associations, for reasons which I would not always criticize them for, might refuse to meet unless there is a commissioner there. Legally, in order to bargain you have to have a commissioner, and that is the problem. We think it is too large a force now to operate always with the commissioner being at the bargaining.

Mr Mahoney: Is your proposal that you would have a commissioner, if possible, but have the authority to delegate and appoint someone responsible, who would then report to the commissioner?

Mr Stewart: Exactly.

Mr Mahoney: Would there then be an opportunity for the bargaining unit to meet with the full commission after, prior to ratification?

Mr Stewart: Clearly. Yes, definitely. The board would not want me to suggest in any way that it wants to give up control of the bargaining because it represents 85% to 90% of its operating budget. We have to have control over that. But frankly we would like to be freer to have it done by staff persons where that is appropriate. I would not want to be misunderstood here. As I said before, there is no intention, if that was in place, to do that tomorrow. We would like the right to do that.

Mr Mahoney: I think you raised some very good points. In the interest of time, Mr Chairman, I will pass it back to you.

The Acting Chair: Thank you. Mrs Marland.

Mrs Marland: First of all, I want to congratulate our Peel Regional Board of Commissioners of Police. This is an excellent, comprehensive brief. I want to ask you particularly about the court security officers, because that is a perfect example of a provincially mandated program which came down as a tremendous financial responsibility on the local tax base, namely, the police budget through Peel regional taxes and throughout the province, not only in Peel. I understand your concern. Do you

have any idea what that additional cost has been in your budget? You have a \$73-million budget this year?

Mr Obradovich: Yes, that is correct.

Mrs Marland: It is only a ballpark figure I am wondering about.

Mr Obradovich: On court security we would be spending approximately \$600,000 annually in the region of Peel.

Mrs Marland: Over half a million dollars that you were not having to spend before. When Mr Bean was here yesterday as the regional chairman, he too put a very heavy emphasis on the fiscal accountability at the local level for what was spent on policing within the local jurisdiction, and I see actually at the bottom of page 4 that your brief is supporting that same line where you are talking about fiscal accountability to communities that are served.

Mr Obradovich: That is one proposal that actually is not quite the way the board had decided.

Mr Stewart: I think the word "accountable" should be "responsible." I think the present system allows for fiscal accountability and we are in favour of the present system, which we think is a fair balance.

Mrs Marland: That is right, but this act changes the present system. Also, the thing the regional chairman was asking for yesterday, which I fully support, is that at least a quorum of a meeting of the board of commissioners include one elected official. That request has been made.

Mr Stewart: We have concurred with that.

1640

Mrs Marland: One of the areas I wanted to ask you about, because it really concerned me, was in the opening statement of the Solicitor General, where at one point he talks about having a central recruiting unit for police officers in Ontario. I particularly, for all the 34 years that I have lived in the region of Peel, and certainly the 16 years that I have been in politics in Peel, have been extremely proud of the Peel regional police force. I know the standard of hiring practices that we have in Peel and I have no hesitancy to defend them on any aspect of hiring and selection procedures. They may well be higher standards, different procedures and different standards than other forces.

How would you feel about it if there were a central recruiting unit that was overseen by the Solicitor General's office which, if you did not hire a certain number of people within certain categories, you were to use as a pool of resource for hiring new officers?

Mr Obradovich: Our position on that is that we see no harm in the establishment of a central recruiting unit. What we would not want to see is it being mandatory to hire from the recruitment pool created by that unit. We would want to have the independence to fulfil our employment equity plan independently and be able to resort to the pool where it may be necessary. That is really our position on that. We would not want to have to draw solely from that pool.

Mrs Marland: I have one final fast question. Where you are talking about the provincial government, you wish that the provincial government would bear the financial responsibility for any new area of service or standard of service prescribed or required pursuant to the Police Services Act.

Can I ask you if you are aware of what has happened in education in Ontario, and particularly as it has affected us in Peel where we have all kinds of new programs mandated by the provincial government for which there is no funding specific to the provision of those programs?

Mr Stewart: It was the education experience that prompted us to put this in.

The Acting Chair: Mr Philip has a very short supplementary for about a minute.

Mr Philip: Is your concern about the mandatory nature of the central hiring pool based on your feeling of local autonomy, that you have the right to make the final decision on who you hire, or is it be based on the feeling that it is better for you to hire locally among the people who live in your community and try to meet those standards and equity without having to resort to that central pool unless it is absolutely necessary, or is it perhaps both?

Mr Obradovich: It might be a combination of both, but clearly we want to be able to focus our hiring efforts within our community and fulfil our needs that way generally, and not just with respect to minority hiring. Also, we feel that our standards are high and we want to ensure that our candidates meet those standards. We also have confidence that notwithstanding the fact the standards are high, we can fill the needs that may be mandated in terms of employment equity.

Mr Philip: You have a fairly large pool to draw on.

Mr Obradovich: Yes.

Mrs Marland: On the other question about courtroom security, if those officers have to be full-time, regular-force police officers, have you any idea what additional cost that would mean to the region of Peel?

Mr Stewart: I would take a guess and say I think the pay differential now would be about 30% between the court security officer and a first-class constable. I think that would be a fair guideline. I hope I am not misleading you by saying that.

Mrs Marland: No.

Mr Stewart: In fact, I will respond to the research officer and let him know.

The Acting Chair: Thank you very much for your presentation.

We expect a bell for a vote any time now, and I am not quite sure if we should proceed now and take the next presenter.

Mrs Marland: I see the minister is on his feet.

Mr Callahan: Could I have a quick supplementary if the bell has not rung yet?

The Acting Chair: It is a 15-minute bell, so we could actually take the next presenter. I think the next presenter is Mr Peabody.

FLEMINGDON PARK CONCERNED RESIDENTS ASSOCIATION

The Acting Chair (Mr D. W. Smith): Mr Peabody, if you want to take a chair, you may start to make your presentation. I do not know whether you have a written presentation or not. We give half an hour, and I guess you could take all of that half an hour to make your presentation or you can leave so much time for questions after your major presentation.

Mr Peabody: I would like to thank each and every one of you here. This is a nice gathering. You folks look all stiff and staid. Ron, it is nice to see you, but what bothers me about all of you folks in this room and in your committee and your hearings is that you folks are always stiff.

You always have these things held in your corridors of power. Has it ever occurred to you cats—pardon the expression—that you can go out into the low-life areas, put on some jeans, take a little caravan with you and speak to the downtrodden, those people who are getting their butts kicked and who are the real people who are getting their heads beaten and things like that? It would be an education for you people to take your show on the road sometimes. I would just want to mention that in opening.

Would you like to say something, Mr Curling?

Mr Curling: Not at all. You are sounding rather interesting there.

Mr Peabody: My brief is basically one that goes back to some 15 years ago when I was associated with the 14 Division Parkdale community relations group. That was before we had any big problems. A few blacks seemed to get their butts kicked and their heads cracked and then something went wrong, like the Albert Johnson and the Buddy Evans thing, and then somebody said, "We have to do something." So they formed what was known as a salt and pepper team, white and black police officers to go through Bathurst and places like that.

At that time we had a very strong influx of Rastafarians, people with dreadlocks and true Rastafarians. Mr Curling can more or less indicate to you folks on that aspect, because quite a lot of you are not very up to date on it. A lot of you politicians hear about Rastafarians and natty dreads and stuff like that and perceive them to be the people who wear the colours and those who have their little hairdos. Some are just riding along to identify the natural Rastas.

I will continue on now with my brief, and I think I have kind of set you folks up a little bit here. I am not going to into this Bill 107 because it is not entertaining. It is nothing interesting to us. I am here to represent the Flemingdon Park Concerned Residents Association and I am wearing two hats today. I am wearing one as an activist and as a member of the black community and that is why I am here.

Way back when Ed Pearson was a sergeant there was a shooting in the black community, and after the shooting we walked the streets, raised hell and stuff like that, but really nothing was done. That was Buddy Evans. After Ed Pearson came into the community the police started what was known as a salt and pepper unit, one black, one white. They went around the barbershops, they came to our parties and they did everything to assimilate themselves, but it did not work because one guy was watching the other. The white guy was in charge and the black guy was doing all the work.

We decided to have a cricket match. Ed Pearson decided to have a cricket match, and we got both teams. The police had a team and the community picked a team. We submitted the names of the players and everybody involved and, lo and behold, on Friday evening we were told that the match was off. An overzealous police officer ran everybody through the CPIC because he wanted to know who was landed and who was not landed. In case you are not acquainted with landed, that is a person with status being admitted into this country illegally. I would prefer to classify that person as an undocumented person. So we had permission from Upper Canada College to play the cricket match on the Saturday and this officer ran us all

through and somebody heard and called us and we cancelled our cricket match.

1650

A second incident that I would like to draw upon is that there was a Trinidadian police officer. His initials were ET, Eric Thompson. He was black and he was from Trinidad. Thompson was a good Rasta cop. He was very good at deciphering the Rasta tapes that the intelligence picked up. In all walks, he was one of the best, but something happened. His mother got sick and he asked for permission to go to Trinidad. When he went to Trinidad to look at his sick mother, the police thought he was malingering. When he came back, he got a second message that his mother was about to give up the spirit, so he went down to Trinidad.

Do you know what the Metro police did? They sent two white boys—pardon the expression, because they do refer to us as boys—down to Trinidad to watch Thompson, because they thought he was malingering, and to watch him bury his mother.

When he came back to Toronto and they found out they had made a mistake, they told him, "Yes, we did send two guys to watch you, but if you hang in there, we're going to make you a sergeant." Since that time, Mr Thompson has quit the Metro police force and is back in Trinidad. He was the manager of Piaco International Airport in Trinidad and he is now the director of security for the Canadian Imperial Bank of Commerce in Trinidad.

There is a white police constable—I will not call the name; we have his name and his number—who is stationed at 52 Division and he only arrests blacks. He has never arrested any whites. Then in the reverse, we have a black PC over at 14 Division who was called up and told, "Why aren't you nicking any brothers?" When he explained to the officer in charge that when he saw the brothers doing something, that is the time he would do something about it, the sergeant told him, "I want to see you bringing some brothers in here."

Incidentally, I omitted to tell you that in my brief the topics I am dealing with here are treatment, which I am on, attitudes, community relations and employment equity.

I know a white PC who was friendly with a lot of blacks. We got to become very friendly. I do a lot of freelance work for the Toronto Star, television stations, etc. We secured a TV film unit, we went into this police constable's home and we photographed him in silhouette. I think you know what I mean by silhouette. We taped him, and he told us very plainly that the police were part and parcel of the racial structure. When we filmed him and we took it back to the TV station, the station manager, the president of the station and the lawyers for the station said: "We can't run this, because if we run this, we're going to get the cops mad and they're going to be upset. We have our vehicles on the street and we can't afford to get the cops off our side." So we took the tape out and burned it in an oil can in the back of the premises.

A little while back I worked for the Toronto Star for about eight years as a freelance photographer, and I also worked for the Globe and Mail at different times. I went into the newsroom one evening and one of the assignment editors called me and said, "Pick up that phone, call this number and listen to this story." When I called, the gentleman answered. He was a gentleman of the Caucasian persuasion and he told me what he saw. He saw two policemen beating a black man. He had binoculars from his apartment. He had a good vantage point.

The Star did not want to go with the story because they did not want to seem like they were nitpicking or something like

that, so the person at the desk said: "Get Contrast to run it. If they run the story, we'll carry it from there."

I called Contrast and gave them the story. They called the police. The police were very smart and they knew how to run their business. The police called and said: "We don't have anybody in custody, we don't have anybody making any claims of being assaulted by the police, but we don't care for that kind of stuff. If you give us the name, the telephone number and the address of the person who witnessed this, we'll go and get some stats and some facts."

The young reporter at Contrast was not knowledgeable to know that this was a ploy. They gave out the man's telephone number and his address, and when the police got there—this is what the man told us—they beat him, called him a nigger lover and told him, "Why don't you go back on a slow refrigerated boat to the islands with these people?" The gentleman called us back at Contrast and told us: "For as long as I live, I don't care for you black people. I wouldn't mind seeing all of you in a cannon and they drop a bomb on all of you and blow you to smithereens."

The Acting Chair: I have just been asked if we could go out to the House for five minutes. They are going to get the vote over with and then we would come back and pick up on your presentation.

Mr Peabody: I would be privileged.

The Acting Chair: The meeting is adjourned for a short recess; we will say five to six minutes.

The committee recessed at 1656.

1720

Mr Peabody: Have we decided we are we going to hit it, or what?

The Acting Chair: We are going to go ahead, sir.

Mr Peabody: Picking up where we left off, a few years ago a black police constable with the Metropolitan Toronto police department handed me an application. It was entitled at the top, "Nigger Application." On it was, "Nigger, where were you born: in the back of an outhouse; watermelon patch; corn patch; in the back of a Cadillac?" I do not know how many officers got it, but the officer who gave it to me was black and he worked out of the intelligence department. He said, "Look what we've got to go through." He said to me, "Can you do something about this?" I said I did not know what I could do, but I had the ear of Mr McMurtry, who was then the Attorney General. He was a very good friend, and still is. I took it to him, and he ordered an investigation.

I was ordered to go over to 1 Division headquarters, and at the time I went over there, the man in charge was Staff Superintendent Jack Reid. They sent me to a sergeant. When I went to the sergeant, whose name I do not recall right now, the sergeant said to me, "You got this?" I said, "Yes." He said, "Are you a member of the police?" I said, "No." He said: "Then tell me something. What the hell is this country coming to when you, a civilian, can go and get some investigation started on something like this?" So I said: "Something like this? This reads 'Nigger Application.'" He said, "Can't you see that this is a Newfie joke?" I said, "What are you talking about, a Newfie joke?" I said, "Thank you."

I left and I went back to Mr McMurtry and Mr McMurtry again ordered an investigation. This time it was done by Jack Reid. However, many of the blacks who got it did not want to

ruffle any feathers and so forth and they said they did not get it. But quite a few got it.

A white policeman was promoted. It was in the Toronto Star, where this policeman went out of his way to save a white young lady who had come in from out of town on the bus. In the statement in the paper it stated that this officer went out of his way to save her from becoming a streetwalker. He was made officer of the month. At the same time, while this officer was doing that, two black police constables, Eric Thompson and another constable still presently on the job, solved a bank robbery. They were taken out of their beds to solve a bank robbery; they solved the bank robbery.

During their investigation they ran into some information about the Barbara Turnbull shooting. They gave the information over to Peel Regional Police and that enabled them to solve the Barbara Turnbull shooting. However, the two black police officers were later made officers of the month, the first time in the history of this country we ever had two police officers honoured by the Board of Trade. Their wives were present; it was a really colourful affair.

To make the story even shorter, the two white officers were advised that they should go to Montreal to receive their gold medals, something of an award by the bank, for solving this bank robbery, but the black officer was not told. The chairman of the bank in Montreal called the black officer and said: "Why were you not here? We have a gold medal for you." He said, "I wasn't told, sir." The bank chairman told him, "You go to any one of your branches and we'll take care of your mortgage and we'll set it at 4%." That black police constable is still on the police force today and he still is a PC.

When I look at it, I am wondering which is more valuable, solving a bank robbery and solving the shooting of Barbara Turnbull—that is double exposure—or saving a girl who just came off a bus who you thought would be picked up by somebody black and made into a streetwalker? Which carries more criteria? I would think the bank robbery and the information that led to the apprehension of the people who got involved in the Barbara Turnbull thing was much more important. That is my thinking.

Carrying on, people like Alfred Hamilton, who is the publisher and founder of Contrast, Denham Jolly, Ettie Roach, Bev Folkes, Akua Benjamin, Dudley Laws, Bromley Armstrong, Charles Roach and myself lobbied the past government and we asked that the height and weight be relaxed, because you do not have to be a gorilla or a borilla to be a policeman. You have to use brains, not size, big fists and big shoes.

We were surprised when the government appointed former Attorney General John Clement. A committee like yours was convened. We gave statements and presented briefs and the height and weight were relaxed, but we did not benefit from it. Ethnic, blacks, Chinese did not benefit from it. Who benefited from it, in my opinion, were the little, short, fat white boys, blue-eyed devils, rednecks. Those were the ones who benefited from it. The height and weight relaxation clause has not helped blacks, because blacks are still applying to go on the Metro police and they are being shunted into the parking control unit. That is why the parking control unit looks like a little United Nations. You can find a complete United Nations in the parking control unit. They have enough blacks, they have enough wind-down dressing. They do not need any more.

The Metro police do not perceive themselves as racist; they would prefer to say that they have preferences. They prefer whites, which is clear, and they prefer anything over blacks. That is also very clear. Why is it that the Metro police should

promote two southeast Asians, both named Fernandez, both East Indians? It looks so bad. Then they got a black guy in from Hamilton and they said, "Okay, we are going to make you an inspector." He is now down in Quantico, Virginia, going to the Hoover institute, as we call it, the FBI academy.

So we do not have any role models in the police department. I think we have about four staff sergeants to date and we are going to be losing two very shortly. When a black person makes an attempt to become a police officer, he is investigated more than the guy who committed murder. I am not saying you must not do your investigation, but they are not making it easy for blacks to become police officers.

Even with affirmative action, last year when the race relations committee was taking briefs, we saw Jack Marks let a posse in that place. His reader was a Superintendent Kerr, who made it absolutely clear that affirmative action lowers standards. Dr Ralph Agard took him on, but that is the attitude of the police. They are sure, and they will not change, that affirmative action lowers standards.

I would like to point out that a large number of blacks who are going to the police department making applications are much more qualified than a lot of these white boys who are in high positions who are making decisions. A lot of these black kids have BAs. Do you know what they are saying about these black kids who come in with their BAs? "The universities must be either selling these things or giving them away free."

A few years back we had a black police constable out of 14 Division. No names; he is still in the police department. He plays his domino. It is alleged that he is an alcoholic. He ran a radar trap just like Marlon Neal. He was stopped. When they found out he was a cop they said, "Go on home." The next morning when he came back to the station it was put through the process. A few months later we heard about it because somebody said, "We saw so-and-so walking the street." We heard it through the grapevine that he was demoted.

I approached the constable and said, "Hey, man, can we work on your story?" He said, "Sure, go ahead." I went down to see the superintendent and the superintendent said, "If he told you you can work on the story, work on it." The superintendent said: "Mr Peabody, you know the man is an alcoholic and I know the man is an alcoholic. So he got caught going home one night, he ran a radar trap and he was drunk." I said to the superintendent—I already had a feeling—"You have 4,000 more drunks in this department," and he said, "Get the hell out of my office."

1730

There are no two ways about it, drinking is a problem in the Metro police and the blacks drink just as much as the whites. I am surprised the blacks do not drink any more because they have more pressure. When the white boys go out there and kick black people's butts and raise hell, it is the black ones you see coming around panhandling and trying to clean up the mess. It is debilitating. It is nerve-wracking to know that some white boy kicked you and called you a nigger and a black guy is going to come around and tell you, "We went to Aylmer together and we passed out in the same squad." That does not change anything. They still kick your butt and they still call you a nigger.

Incidentally, that black policeman was demoted. He got his chance to go up again, and when we had an insurrection—I call it an insurrection—a verbal insurrection, he was called and told to come out and assist in putting things back together.

Every policeman who has shot a black in this city, Buddy Evans and Albert Johnson, has been promoted to sergeant. There is an ironic twist to all of this. Any policeman who goes out there and raises hell and acts like a Rambo is commended.

We had a fellow up in the Jane-Finch area at 31 Division—he is no longer up there—whose name was Bob States. He raised havoc. He did everything he could until the police got tired of him. Jack Ackroyd called me when he was chief and said: “Al, I need some input. What can we do? We have to get rid of States.” I said: “Look, you can’t transfer him from one district to another. He is going to take his dirty laundry with him. Why don’t you send him to the police college and give him a course in the humanities?” He said, “Thank you.”

The next thing, I had an assignment up at the police college, C. O. Bick, up in Scarborough. When I went up to the police college, I saw the same policeman who was raising hell. He was an instructor. His job was to teach white and black recruits how to apply the choke hold, what we call the mugger’s hold. They choke you until you are stiff, black and blue. That is no great sense of achievement. You are teaching people how to choke-hold somebody. He is now on the emergency task force. He is the only member of colour on the ETF.

I would also like to point out that your homicide department is chalk white, your fraud squad is chalk white. The blacks can only act as gofers. They can only fetch and do the initial work, and after that is over, they go back to what they used to do.

A black police constable saw a southeast Asian police officer kicking a black. This black fellow was on the floor up at 14 Division in a foetal position, and this southeast Asian police officer was calling him a nigger and kicking him. The black police officer went in and said, “Hey, listen, what is happening here?” He said, “This nigger won’t tell me what I want to know.” The black police officer said: “Now listen, I don’t ever want to hear you calling anybody other than their name and I don’t want to see you using your feet on anybody. The next time I see you doing that, your ass is mine.” Pardon the expression, I know you have ladies in the House, but I have to tell it to you like it is. And that was the end of that. That black police officer is not on the police force any more.

I would like to get on to the trampling of a police constable from 51 Division. He is still in the police department so I will not call his name. He was accused of having a gun. He never had a gun, and we had to take him off the island and take him back to Toronto. I will never forget the investigating officer. That is why I say police cannot investigate police. The investigating officer was white, he was 37 years old and I will not call his name. He was in internal affairs. He came to me and said: “I’m 37 years old, Al, and I’m white. How do you think I got where I am? This is a white man’s world.” He said, “Look, the man is wrong, but he can’t charge a sergeant.” I said, “Is that the way it goes?” He said: “Hey, man, it’s a white man’s world. There are two people who run the police department, the Masons and the mechanics, and I am not speaking about the carpenters and the people in the construction trade.”

I would like to continue on and say that I used to like Chief McCormack, but Chief McCormack is sly, he is slick and he is wicked. When Sophia Cook got shot, Chief McCormack called me up. I was not home. When I got back, they got in touch with me. I told him: “I like what you do. You call the brothers in and explain it to them.” Chief McCormack says, “Well, I called the OPP in to investigate.” But what Chief McCormack did not do, I asked him to call off this search team that he had looking for guns, because when Sophia Cook was shot, they said that the

fellows in the car were armed and dangerous, but no guns were found. Up until this day no guns have been found.

I would like to go on record to state that I was the one who told Chief McCormack to go and see Sophia Cook, because it was the humane thing to do. He has got four kids in the police department and a son-in-law. He was very, very reluctant, adamantly reluctant. He went and he got a lot of flak. They nearly walked out on him.

I would like to continue further in saying that Chief McCormack has done one of the greatest injustices to the black people by maligning our leaders. He thought it would have worked. So did Alan Tonks. He put his foot in his mouth. So did the Metro chairlady. There is an old saying in the black community: You have got to free your ass first and then your mind will follow. She needs to check into that one. She is a bit constipated. She and Fantino are trouble. In any other country Fantino would have been gone. He would have been sent some place down in Lebanon or in Israel there if he is that good. That man had no right dispensing that kind of information. He did not have the right to do it and yet he is still on the Metropolitan Toronto Police Department.

So who is in charge? You guys are not in charge. You guys are afraid of the police yourselves. Chief Jack Marks was sly and slick. Jack Ackroyd was about the only gentleman. He knew when it was time to walk. They had to use a cutting torch and a pickaxe to get Jack Marks out of there. It seems like the same thing is going to happen with McCormack.

What did McCormack do as soon as he became chief? He got a little houseboy, something that used to be in Africa years ago. We do not need a houseboy, a black boy or a house lackey running behind you fetching your papers, fetching your coffee, shining your shoes and flushing the toilet after you. That should stop. If he wants a houseboy, tell him to get one of his son-in-laws that he has or one of his kids. That is taboo. If he wants a black boy to run around with him, he should not have picked—especially with that fellow. It is bad. It is disgusting.

I would also like to point out when we had a hurricane in Jamaica—no disrespect to you, Minister. When you were a minister you took stuff down to Jamaica; so did the police department. We are very grateful. But one of the most embarrassing things that the police department did was to send down goods and it sent down a policeman from Barbados, who has no knowledge about the geography of Jamaica, and a white policeman. I got a call from a black policeman who called me and said, “Hey, man, this is an insult.”

I called up then Deputy Chief McCormack and he told me: “Mr Peabody, we did not want all the stuff to go into one person’s household in Jamaica. That is why we sent Hammy and the other fellow.” I said: “But you have got respectable police officers who form organizations, so that somehow means you don’t trust those Jamaican police officers. They are only good to listen to your tapes and to help you.”

I want to get back to another thing that is very, very disgusting too. Recently, a dinner was held for McCormack. I have never heard of a dinner being held for a police chief after he has been on the job for six months. It was put on by blacks. Here we have a police chief six months on the job and a dinner is put on for him. The man who put the dinner on is working for the police. He has been in the police department for over 20 years. In 20 years he went before the board once for promotion. He could never be promoted, even if he was a magician. Four weeks after putting on a dinner for McCormack, orders came down that he was an acting sergeant. That is not nepotism; that is colonialism.

If you do not put on a dinner for him, you do not get counted. It stinks. Chief McCormack should go and must go, because you are never going to have any peace. He is a phoney. He is playing both sides against the middle. You politicians are beautiful and you know what is going on, but you have no idea what is going on below the level of your knees. No, you do not know, because you do not look below your knees, because your steps are assured. Everywhere you guys go you are assured. You can walk comfortable. You have protection.

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Your police are racist, not all of them, but you have a large bedsheet mentality not only with the Metro police, but the OPP too. An OPP officer told me: "Mr Peabody, don't think we're any different from the Metro boys. If we were having contact like you have with the Metro police, it would be the same. The only reason why we're not having problems with you guys is because we only run into you on the 427, the QEW, the 401 and the 403. But we and the Metro police are from the same flock."

You are going to have a problem with the Peel Regional Police. You look at the wording of "Mississippi" and look at the wording of "Mississauga." I went to see a blues singer out of the deep south and he said: "I feel nervous playing over here. Mississauga, it reminds me too much of Mississippi." It is too close. The only thing the police have not done in Mississauga is put out the sign, "Mississauga: Niggers Read and Run," like they used to have in Mississippi. Your police in Mississauga stink, man. They are tough on niggers. I make no bones about the term. They are tough on niggers. When black people go into Peel region they are nervous. They develop a severe case of haemorrhoids once they get into that neighbourhood because they are sure to run into some kind of problem.

The problem with policing is fear. Until you legislators sitting here listening to people realize that you cannot have one man and give him power and tell him to go out there and kick ass and carry on—you cannot have a black man who went to university and acquired a BA, and a white boy comes in and says: "Hey, listen, professor, I hear you've got a BA, but I just want to tell you, I didn't join this man's army to take orders from no nigger. Sir Robert Peel"—you know who Sir Robert Peel is? That is the man they called the bobby—"didn't look anything like Martin Luther King." That is an insult.

If you go and get a degree, they say you are overeducated. If you do not get a degree, they say you are not ambitious. You folks have to look into your judicial system too because the police have labelled judges. They say Judge Charles is overeducated and he is smart. That is a compliment. Nice to hear the police admit that there is a smart black man. They said, "Judge Carter is a good black boy." Imagine. Judge Carter is over 50 years old and they call him a good black boy. They said Judge Lampkin, "He's okay there." Judge Carter is as black as coal and they call him a "black boy." They put all the Rastas before Judge Charles because Judge Charles is a bald head.

I cannot go on to tell you the litany of disgust. They stop you on a Saturday night; that is black people's Christmas. They harass you, "You're speeding." You are not speeding. "We say you're speeding. Can you prove differently?"

The Acting Chair: I just want to tell you, Mr Peabody, that you—

Mr Peabody: You can ask your questions now. I have vented my feelings and I have stated and I have given you, I think, enough. I am not going to continue. You can ask whatever questions you want to ask now.

The Acting Chair: Mr Curling has the floor first here. He wants to ask a question, and I think Mr Philip.

Mr Peabody: Mr Curling, I hope you will not be in any way upset because we are persons of colour, so ask the questions and ask them rightfully. I want to give you a rightful answer.

Mr Curling: You have expressed your experience in giving us many of those experiences that you have had and have been told about. We have heard many of those stories too as legislators and parliamentarians. I want to tell you too that many of my colleagues here have been in the trenches, on all sides, on the Conservative side, on the NDP side and on the Liberal side, and have heard many of these stories and have seen some of them too. Some may not have spoken about them. That is why we look very seriously at how the police force is being governed and then we look as a government and realize that for 40 years this act was not even amended.

I noticed when you started you said that you were not going to discuss this, that it is boring. I agree with you that sometimes these things are not bedtime stories. But having an opportunity to read this, I feel that we are moving in the right direction. I presume when you made the comment you were a bit familiar with Bill 107. I do not think it will solve everything. I fully agree with you that this will not solve attitudes. These are just words put down in structures that we will follow and have to be followed. If it is violated, they can be charged and the appropriate action can be taken. Could you tell me, are we as a government with Bill 107 moving in the right direction?

Mr Peabody: Thank you, sir, but let me just compliment you in one statement you made. To all of those politicians and the people who have been in the trenches—Ron Kanter was and he is gone—I want to say this: I have been on the record as stating very clearly that we have to respect and honour those persons of the Caucasian persuasion who have been in the trenches with us. I make no bones of saying that. I do not care which black persons are offended. We have to respect those people who have been in the trenches.

Now to get to your question, sir. This bill is one small step towards decency in mankind. It is one small step. It is not a big leap; it is not a foot; it is one small step. What took you folks so long? Was it Marlon Neal's shooting? I mean, this thing has been sitting around gathering dust.

Mr Curling: I fully agree with you. I think it has taken too long to reach this stage, but we cannot lament over the fact that it has been too long.

Mr Peabody: Correct, sir.

Mr Curling: Sometimes when we can tell all the stories and do not move on—it is said there is a time for awareness and a time of action. Dr Ralph Agard made that point very clearly. I think we are in the process of action. Then I will ask you, are we acting in that direction? The other positive question is, do you feel that this will assist in changing the attitude or bring a bit more trust into the system with the black community?

Mr Peabody: I think what the black community is seeing right now is an arrow pointing that way and they are asking: "Should we follow that arrow? Should we trust the guy at the other end with the bow if he lets that arrow go?" That is what the black community is saying. We have never seen a climate—I mean, this is beyond a heat wave, man; this is beyond a hurricane. This is like the tragedy happening in Hawaii. This is a volcano of immense problems. It has erupted and for once

black people are telling you people, "We are not going to sit down and get our heads cracked and our butts kicked and you are not going to shoot us."

Mr Philip: Thank you, Mr Peabody, for an interesting presentation on your experiences, which are many. My question to you is this: You say it is small step, but in opposition the Liberal Party, the Liberal members voted against the original Metro police bill because it did not have an independent police inquiry system. Dr Dan Hill and the Canadian Civil Liberties Association have said that this bill is bad for that reason and also because unlike the Ontario Human Rights Commission, unlike the Ombudsman's office, there is no procedure under this bill whereby the public complaints commissioner can do an independent audit into investigations. So we can have a repeat, if you like, of the kinds of things that have happened in orphanages and things like that which we have, unfortunately, read about in the newspapers recently. Is it your feeling that you can have any kind of police complaints procedure that will be respected by your community that does not have a completely independent police inquiry system?

Mr Peabody: You have hit a great point there. I am a little bit miffed, but this is politics, when you brought up the point that the Liberals did not vote for that aspect of the bill. That is very nice. They sat on it.

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Mr Philip: They criticized the Conservatives when they brought in their bill and now they are doing the same kind of bill.

Mr Peabody: Yes. You are a politician. You really noticed that.

Mr Callahan: That is totally perceptive. You are right on.

Mr Peabody: Anyway, I would just like to say we never did trust the police investigating the police, because when the police investigate the police not every stone is turned, from my experience. They turn the ones over that they think "yes" is on there, but the ones that say "no" they do not want to touch. You have to have an independent agency, independent of the police, to investigate the police, because if you cannot trust them to investigate themselves, how are we going to trust them? The police must—I mean, who are they? God Almighty?

Mr Philip: My other question to you is that I am sure you are aware that a majority of the major issues that are involved in this legislation are actually not really in the legislation but are covered by regulation—

Mr Peabody: Sure.

Mr Philip: —that there are in fact no employment equity standards set out in this bill, that there are no criteria for making any kinds of decisions that are in this bill. Do you feel that the regulations, when they do come forward, should be open for public input so that the police, members of various communities and the police commissions and anyone else who is interested can comment on the fairness of the regulatory system that is going to have a major impact on people's lives?

Mr Peabody: That is a very good point you brought up about employment equity because what we are seeing right now—I will get to your point—is entry level. We have policemen on the Metropolitan Toronto Police Force for 24 years who are still constables. How are you going to convince some young black kid coming out of college with a BA or BSc

that he is going to make it to a sergeant when you have guys out there 24 years who are still constables?

This bill does not address the clear issues such as employment equity. It does not address the fact that promotion—this in-house promotion, you for me and you have got to be a mason or a mechanic, and for you to become a sergeant you have got to put on a party at your house and invite all the white guys and the white guys have got to endorse you. For a black guy to become a sergeant he has to arrest a million blacks and then he gets patted on the back and told, "You are doing a good job." That does not get it. I totally agree with you, sir, that all aspects of the areas you mentioned should be open to scrutiny and should be included so that everybody can get a fair shake and see what is happening.

The Acting Chair: I think we are going to have to cut it off right there. Thank you, Mr Peabody.

Mr Callahan: I had a very quick question.

The Acting Chair: Very short, Mr Callahan.

Mr Callahan: Can you tell us what the result of that complaint to the former Attorney General was? What happened with that?

Mr Peabody: In a second investigation, two officers admitted that they got it and it was classified as nothing serious, nothing to worry about. But I consider it serious when all black policemen get an application like that, because I mentioned the fact that if a black person had set up a honky application for honkies, then the sergeant would say, "Now then we would look into something like that." But he refused to look into the white making the application for the niggers.

Mr Callahan: But there was an investigation by the former Attorney General. What I want to find out is, what result came from it?

Mr Peabody: Yes, Mr McMurtry ordered it. The result that came from it? Nothing, because most of the guys did not want to go through the hassle. Let us get one thing straight. When we black people get together we talk about you folks. We talk about the whites we respect. We talk about the whites we distrust. We talk about the blacks we respect. When Mr Curling is slipping we say, "Hey, you are slipping, man." We are human beings.

Mr Curling: Have I ever slipped?

Mr Peabody: Not yet. So I just want to tell you—this is something you should know—we talk about you people and we also let it be known that your system is one that needs fine-tuning. It is out of whack.

The Acting Chair: Thank you. You have put those comments on the record and they will be dealt with.

Mr Peabody: I want them more than on the record; I want you to act on them.

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

The Acting Chair: We have the regional chairman from Haldimand-Norfolk, Keith Richardson, if we could call you forward. Introduce the person with you as you get to your chair.

Miss Roberts: Are we going to sit past six o'clock?

The Acting Chair: I presumed we would. I have to ask for your permission.

Miss Roberts: There are some of us who cannot stay.

Mr Philip: I think that should be up to our guests. I have some real problems myself.

The Acting Chair: I have just been told by the clerk that we have permission from the House leaders and the whips to meet past six, but if there is not going to be anybody here it makes it difficult. I imagine these gentlemen had about a two-hour drive to get here and I would like to have their comments on the record. I am in your hands.

Mr Mahoney: Who has to leave? I am supposed to be somewhere at seven, but I will stay for 20 minutes or so.

Miss Roberts: We will stay for a while.

The Acting Chair: Mr Richardson, if you would introduce the person beside you, we will carry on for as long as we can.

Mr Richardson: I do not intend to take a long time; that is not my nature. I am Keith Richardson, regional chairman of Haldimand-Norfolk region. With me is Robert Johnstone, my treasurer and commissioner of finance. We want to talk briefly about Bill 107, talking mainly about representation, accountability and the financing of police services. We will basically limit our comments to that. I would like to read my brief. It is not a long one, but I think it bears a few moments of your time, I hope.

I am here to represent my colleagues on regional council to add our voice to those who have already said that the present Bill 107 with regard to representation and financing of police services cannot go forward as it is now drafted.

We strongly object to and absolutely oppose the sections of Bill 107 which represent a removal of local government involvement in police services. The course chosen by the Solicitor General is to place police services, no matter how delivered throughout Ontario, squarely and firmly under the control of the provincial government. By this bill, local authority to influence the police service and its associated costs will be totally denied in Haldimand-Norfolk. We find this action totally unacceptable.

What is most disconcerting about Bill 107 is its seeming ignorance of recommendations and observations made by a series of regional reviews, beginning with Metropolitan Toronto in 1977, which favoured amendment of the Police Act to clarify and strengthen the role of municipalities, not to weaken it. I will let the spokesmen for other regions make their points to you, and I believe some of them already have, but what you will find throughout these reviews is their similarity in that a strong local government presence is required—not just desired but required—in order to maintain an accountable, effective and efficient police service with which the local inhabitants can identify and in which they can put their trust.

Let me tell you just a little bit about Haldimand-Norfolk, and I assume one of our members has done that a number of times; I recognize Gordon Miller here today. Within the region we have approximately 90,000 inhabitants and they are widely dispersed among urban and rural areas. The regional police service the urban areas for the most part and the provincial police service the largely rural areas.

The regional police service is directed by a board of commissioners of police composed of five members, of which three are provincially appointed. One of the two regional representatives must be present to form a quorum.

Order-in-council 1898/87 appointed the Honourable Larry T. Pennell, former justice of the Supreme Court of Ontario, to review local government in Haldimand-Norfolk. In his report, Mr Pennell extensively reviewed the issues of representation, accountability and financing. I cannot express in any clearer language the results of Mr Pennell's research on these questions than he was able to do. We are going to quote some of what Mr Pennell has said in his report.

Representation: Of how police service should relate to the local community, Mr Pennell wrote:

"We believe that there is value in regarding the regional police as a local service. As we have seen, police expenditure in 1988 accounted for 25% of the regional tax levy. It is important, in our view, that the policies of this policing service should not be seriously out of step with the pattern of local government. It is desirable to strengthen the link between the board of police and the locally elected representatives of the people. We have heard no argument as to why this cannot be done without any erosion of the status of the chief of police or increased risk of political interference in the daily police activities.

"We think this strengthened bond can best be secured by giving the regional council a majority of one on the board of police."

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From his discussion, the following recommendations were put forward by Justice Pennell:

"We recommend that the Regional Municipality of Haldimand-Norfolk Act be amended to provide: (a) that the Haldimand-Norfolk Regional Board of Commissioners of Police consist of seven members, four appointed by regional council and three appointed by the Solicitor General of Ontario; and (b) that a quorum of the board of commissioners of police consist of at least four members, of whom at least one is a provincial appointee and at least two are regional councillors."

Mr Pennell recommends that the balance shift towards local majority, as well as strengthening the quorum requirement to ensure local input.

I do not need to explain to you any further how different in direction the recommendations of Mr Pennell are from those of the Solicitor General. The difference is that Mr Pennell has heard from the residents of Haldimand-Norfolk and the people who are responsible at the municipal level. I contend that Mr Offer has not.

Mr Pennell, in framing his recommendations, recognized fully the politics of policing when he wrote:

"The traditional position of the province appears to be built on the contention that it is essential to keep politics separate from policing. If this contention's sole purpose is to prevent political interference within the day-to-day operations of the police, it has the board's unalterable support.

"A timely reminder is that all members of boards of police are political appointees. To maintain that there is a distinction between members appointed by the provincial government and councillors appointed by the regional council for the purpose of keeping politics out of policing is an unrealistic assertion. The political involvement of the provincial government is merely substantiated by that of the regional council."

Financing: In Haldimand-Norfolk, over 30% of the regional levy is directed towards police services. Mr Pennell recognized both the size of police expenditures and their importance to the region when he said:

"We recommend that the budget of the Haldimand-Norfolk Regional Board of Commissioners of Police should be subject

to the approval of the regional council and the approved amount should be final and binding on the board of commissioners of police as it is for a department of regional government."

You will notice there is a bit of a difference in the calculation there. We calculated 30%. The way the commission calculated it, they worked on 1988 figures and did the calculation in a little different way. But the bottom line is that in 1990 the police budget, less the police grant, is 30% of our total net levy.

In support of his recommendation, Mr Pennell observed:

"The present budget-setting and approval process for police services is immune from the sensible give and take of expediency, logic and utility that shape the regional budget of all services. But on top of that defect there is also immunity from accountability to the local electorate, the first requirement of any system of local democratic government.

"It has been suggested to the board of review that the move to give the regional council a dominant position in its relation to the board of police may result in an inadequate or insufficient budget for police services. Not persuaded by these gloomy forebodings, we assume that a board of police, a regional council and an electorate will work together with responsibility, common sense and conscience."

Can I emphasize more to you that the costs of such a major service as police to a municipality should be subject to realistic scrutiny by the representatives who have to vote the funds for this and other important services? The proposed legislation has none of this. How can it be that the Solicitor General would continue the exclusion of police budget review and decision-making from those who must pay the bills?

It is obvious from where I sit that the government of Ontario has not had enough time to consider at the highest levels the report from Mr Pennell and other local government reviewers in comparison to the position of the Solicitor General on these important issues.

The regional chairmen made their presentation to you on 29 May, which set out recommendations for amendments to Bill 107 that support the recommendations of Mr Pennell. These collective views represent policing service delivered to over 80% of Ontario's population. While I was not here on 29 May with Chairman Pomeroy when he made the presentation, I personally support the recommendations put forward in the regional chairmen's brief.

Regional council has supported the recommendations of Mr Pennell. That is part of the record and that has been conveyed to Mr Sweeney. I urge you to accept the recommendations of Mr Pennell, thereby adding responsibility and accountability to the role of municipalities. This position I take on behalf of the residents of Haldimand-Norfolk. I will also leave with you today a resolution to be presented tomorrow to regional council which puts forward other issues related to this important legislation. We will advise you of council's decision.

I want to thank you for your time in listening to us. We are certainly concerned about those issues that Mr Justice Pennell was concerned about, and we addressed them in looking at our regional review. The time frame for bringing this issue before regional council became a little cramped up, and as I say, the resolution that is part of this document will be considered by regional council tomorrow.

I will be more than pleased to respond to any questions that members of the committee may have.

The Acting Chair: I have one question to ask you. It is just a point of clarification. On page 2 you have, "Order-in-council 1898/87." Just for the record, should that be 1988? I just wondered if the date was wrong there. If it is right, that is fine.

Mr Callahan: It is just the number of the order.

The Acting Chair: It is just a number then?

Mr Richardson: The date is the last one.

The Acting Chair: Okay, if that is what it is, that is fine.

Mr Richardson: I would suspect the order in council would have been in about 1987.

Mr Callahan: It was a big year for orders in council, I guess.

Mr Philip: Thank you for an interesting brief. One of the points you and other groups are making, and indeed that AMO is making, is that one of the things we always believed in in a democracy, I guess, was accountability. Under this bill you are being told a number of things you are going to have to do that are going to be expensive and that you are going to pay for, but the province is going to appoint a majority of the people who are going to make the major decisions.

I guess the biggest part of your local budget would be for policing, would it not?

Mr Richardson: It is the biggest single item, yes.

Mr Philip: So what you are saying is, "If we're going to pay for it, at least we should have the right to appoint a majority of the decision-makers."

Mr Richardson: We think that is only fair. I guess if I went as far as I would like to go—when I read Bill 107 and the implications of this bill, it seems to take away two or three of the inputs that we had as regional council. It still leaves us with two representatives on the police board, but I am beginning to feel as if you might as well take policing back altogether. You are taking a lot of the control. Take it back and fund it all. I am sure I would attempt to sell that to my regional council, and I think that would not be too difficult.

Mr Philip: So you are saying to the province in no uncertain terms: "If you want to make all the decisions, you'd better pay for it. But right now you are telling us that we're going to have to pay for it, so we want some say in the decision-making."

Mr Richardson: When the police budget comes to our council, it is subject to some negotiation, but as happened in this year's budget exercise, when the police budget came in it was indicated to us that there was no room for negotiation. We did not feel strongly enough about it at that point and felt our chances were not that great to take it further, so we asked our ratepayers to pay the bill.

Mr Philip: Notwithstanding the representation issue on the commission, would you agree, though, that provincially the province should have some right or some responsibility to at least set certain standards? I am talking about most of the things that probably are found in section 133, which is the regulations section, as to what the qualifications should be for a police officer, what the dress code should be, what the training should be, so that at least there is some quality control and consistency across the province. Would you at least agree that the province has that right in terms of setting certain—I hate to call it minimal standards, because a number of police forces always exceed the minimal standards—but at least set a minimal standard for police services in the province?

1810

Mr Richardson: I expect most of us here spend a good deal of our time not in just one municipality but in a number of municipalities, and I think we would like to see police services at some reasonable level across the province. I do not think we want to see voids in any particular municipality, so on that basis I do not have a problem with some standards being set, but let's let the municipalities have a bit of a hand in when they have to pay the bill.

Mr Philip: One last question. Since the major decisions of this bill are going to be made by orders in council under section 133—in other words, by the minister and his advisers without any consultation to this committee, to you, to the public, to the police, to the communities—do you feel that the regulations should be sent out for comment and input from people like yourself before they are passed into law as orders in council?

Mr Richardson: That would be a fine principle. It does not often happen, I do not believe. If you can ensure that that happens on this bill, we would be more than happy.

Mr Philip: In some countries it does happen.

Mr Miller: I just wanted to say welcome to Queen's Park, Keith, the chairman of the region of Haldimand-Norfolk, along with the treasurer for the region, Bob Johnstone. I am pleased that you were able to make the presentation.

I am not a member of the committee, but I am interested in the results, that it is going to be fair and equitable across the province, and I think you have made some strong recommendations.

Again, I would like to say thanks to the committee members, because I know it is after 6 o'clock and we generally sit until 6. A vote this afternoon was a delaying factor, and I know everybody has a busy schedule.

I will listen carefully and I hope the committee members listen carefully to your presentations, and I know they will. I think that is the principle of new legislation and changes made in the legislation. Incidentally, the legislation has not been changed, I believe, since 1949. It certainly requires upgrading and I hope it can be fairly applied to our region and the province.

One other thing I would like to make a comment on is that we do have three OPP offices within the region of Haldimand-Norfolk giving service which is totally paid by the province. It has worked quite well. I think it might be a possibility down the way someplace that maybe that might be reviewed, but I am always afraid that it might increase the cost considerably if the region has to pick up the total cost. So it is kind of a teeter-totter.

Mr Curling: Mr Richardson, the comments you made about the regions needing more representation, the majority of representation on the commission, you said that recommendation has been made by I think all the regions—two have sort of been in force before having that kind of a balance, you say, but you mentioned that you want more say, you want a say on that board. I presume that what you are saying is you want the majority vote on that, control of it, more or less. There are two points you made. One is that a majority should be there from the region and the other part is that unless a regional member is there, there is no quorum. Is that what you are saying? You do have a say, but you want the majority of vote there.

Mr Richardson: Can I say first, to comment on a statement made by one of our members, Gordon Miller, that I am

kind of happy to see that he crossed over to the other side of the committee room. I was concerned for a while.

Miss Roberts: We were not sure whether he was a Conservative or an NDP.

Mr Richardson: I knew he was not a Tory.

The Acting Chair: We hope things settle down for you, Keith.

Mr Richardson: That is fine.

Mr Curling, to address your two issues in regard to majority, we would like to be able to name the majority of the board, but if we examined all the controls and the positions that the province is putting in this act, I think even if we had the control at the board, the province still has, I suppose we could say, the upper hand because of the regulations that we have not seen yet and some other issues that are put in here in regard to standards. I do not think we would get too far off the track if they were our friends rather than your friends.

Mr Curling: Just as a supplementary to that, I just want you to clarify this. You do not feel you have a good say or you will be treated fairly, or the majority, who are provincial appointees, would be treating it fairly. It sounds to me as though unless you have the upper hand, there is no way that you could be treated fairly. I get that impression from all the regional municipalities which have come in about that, that we have to have the upper hand before we can be treated fairly.

Mr Richardson: It is a local board and the taxpayers are paying the majority of the bill. I get the feeling that they would like to appoint the majority of the members on that particular board. You have taken away our right to have someone there in the making up of a quorum. We used to have that. We will not have it if Bill 107 is put in in its present state. I would not like the local board to be in a position where it could go ahead and do business without either one of our regional councillors being there if in fact you are going to go ahead with the recommendation or the act the way it is.

Miss Roberts: Would you be satisfied if the appointees were appointees instead of elected councillors? Do you not think that would be a better deal for everybody around, especially with the views and the problems that we are having with some of the comments Mr Peabody made and things like that? Should it not be just appointed people, not elected people, no matter what, and you should not have elected councillors on that, because they are a body unto themselves, the commission. They set their particular budget, take it to you for approval and you can send it back to them if you so want. It would be a lot better if it was just appointed people and not elected people.

Mr Richardson: Are you saying that the regional council appointees should not be regional councillors, they should be appointees from members of the public, the same as the provincial appointees?

Miss Roberts: Separate; that is right.

Mr Richardson: That is an interesting point of view. I had kicked that around a little bit in my own mind as to whether I should put forward the issue that, rather than the province appointing three, some alternative configuration be put forward where maybe there would be one regional councillor and two appointees by the region. That is an interesting philosophy. I know that some of you have served on municipal councils. There is certainly some benefit to having the background of

being on municipal council and knowing a little bit of the other priorities that a council has to face when it comes down to finally setting a budget.

Miss Roberts: But the argument is very clear: Why should you have elected people on there when indeed you only have appointed people from the province? You have elected people, who have a very fine focus, but they have a focus, versus someone who has a community focus and not a provincial focus. They certainly are not in any way trampled or educated by the province—not as much as they should be. What you have is an elected person versus a community person.

I think you should be looking at that. It is just something for you to think about. Especially when you are putting forward that you want to have the municipality have the greater number, then they most likely should not be elected people, they should be appointed.

Mr Richardson: I hope you would put that position forward to the minister as well.

Miss Roberts: I have.

The Acting Chair: Thank you, Mr Richardson and Mr Johnstone, for coming down here. Your comments have been stated very well, and they have been stated by other people. Hopefully we can do something to accommodate you, but this is how this scenario is played out. We will have to wait to see in the end how all the bill is presented. Thank you once again for coming.

Mr Richardson: Thank you for the opportunity.

The committee adjourned at 1819.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Substitutions:

Curling, Alvin (Scarborough North L) for Mr Nicholas
 Daigeler, Hans (Nepean L) for Mr Cooke
 Philip, Ed (Etobicoke-Rexdale NDP) for Mr Hampton
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 Callahan, Robert V. (Brampton South L) for Mr Chiarelli
 Wiseman, Douglas J. (Lanark-Renfrew PC) for Mr Runciman

Also taking part:

Marland, Margaret (Mississauga South PC)
 Miller, Gordon I. (Norfolk L)
 Offer, Hon Steven, Solicitor General (Mississauga North L)

Clerk: Arnott, Douglas

Staff:

Fenson, Avrum, Research Officer, Legislative Research Service



J-18 1990

J-18 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Thursday 7 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations and
Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le jeudi 7 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Robert Chiarelli
Secrétaire : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday 7 June 1990

The committee met at 1539 in room 151.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

ONTARIO ASSOCIATION OF CHIEFS OF POLICE

The Acting Chair (Mr Polsinelli): I would like to welcome as our first presenter the Ontario Association of Chiefs of Police. I advise the members that we have generally allocated 30 minutes for the presentation, including questions. Our next presenter is on at 4:30, so we may have a little bit of latitude with respect to this presentation. I will recognize now Chief Richard Zanibbi, the newly elected chief of the chiefs of police.

Chief Zanibbi: Not quite yet, but as of next month or later this month, hopefully, the president of the Ontario Association of Chiefs of Police, but I come here in my capacity as first vice-president of our association.

First, I might introduce those who are with me this afternoon: Chief Alvin Barber of the Brantford Police Force; Chief James Harding of the Halton Regional Police Force; and Ron Cork, the solicitor for our association.

Our apologies with regard to not having sufficient copies of our brief. We have distributed what we have brought with us and I trust they will suffice for today's deliberations. I will also be referring to a number of sections within the brief. However, time does not permit me to address all the issues that we feel are of concern to our association. I urge the members of this committee, when the opportunity presents itself, to read the brief in detail, because I do not want to diminish the importance of those items that I am not speaking to today.

The Ontario Association of Chiefs of Police wishes to express its appreciation to the Ministry of the Solicitor General for the opportunity to participate in the debates which preceded the drafting of the proposed Police Services Act. The consensus of agreement arrived at by participating agencies has greatly reduced the number of issues about which the membership of our association needs to express concern. However, concerns do exist and they will be addressed during the following presentation.

Both the concern and support we will express here today are not made on behalf of any individual chief of police but rather on the impact this proposed legislation will have on the office of the chief of police to perform the duties assigned to it. It is the chief of police and the legal authority of his or her office that perhaps more than any other authority is touched by this act and will have the duty and responsibility to ensure the act is fulfilled by the conduct and performance of all members of the force.

The office of the chief of police has long since been seized with the responsibility and commensurate authority to accommodate the lawful will and direction of the board of commissioners of police or committees of council to lead, administer and manage the force and to deploy its resources to the best advantage and service to the community.

We would be remiss if we failed to point out to the standing committee that the relationship between the police, their governing authorities and government has secured for the province of Ontario a standard and form of police service that is renowned throughout the world. It is our respectful submission that this bill and its implications should be reviewed on behalf of all the people of the province and not just for those communities that labour under the burden of extraordinary circumstance and change.

The concept of independence of the police and judicial system from the political executive is substantially maintained in the proposed legislation and is one strongly supported by the Ontario Association of Chiefs of Police. This concept has stood the test of time and of political, legal and social review. The Legislature should carefully consider any departure from this principle.

The question of accountability of the police is of great concern to all of those involved in policing. We strongly support and willingly participate in any process designed to accommodate the accountability of the police to those who govern and to those they serve. The question of accountability, though, should not be confused with the management function of the office of the chief of police to set goals and objectives for the force in concert with and in response to community needs. This has been, is now and in the world of management will continue to be a function of management, and it is a function that should not be interfered with.

I will now move to the proposed legislation and address the first item, which is the declaration of principles.

The Ontario Association of Chiefs of Police does not quarrel with the six principles set out as section 1 of the act. Though the principles are not viewed by our association as a statement of all the principles by which policing should be provided to the citizens of this province in the 1990s, they highlight the major concerns and initiatives of police service providers in the 1990s. However, we do object to the inclusion of these principles within the body of the act. In the proposed Police Services Act, the declaration of principles follows the enacting wording rather than precedes it.

No organization or group of individuals, public or private, has been placed under closer scrutiny in terms of their compliance with either the Human Rights Code or the Canadian Charter of Rights and Freedoms than police forces and their members. The very large majority of police officers in this province have made substantial efforts to comply with all and more of the principles set out in the act. However, to incorporate these principles, and only these, as part of the act rather than a preamble to it is to suggest that police officers in this province, more than any other persons, profession or organization, need to be legislated to act in accord with these principles.

In summary, the OACP has no quarrel with the six principles as far as they go but respectfully suggests that they should precede the enacting clause of the bill as a preamble rather than form a part of the act itself.

I will refer to subsection 3(1) in the administration of the act under part I and ask, can the Ministry of the Solicitor General explain the rationale for having the public complaints section and requirements of the act administered by the Ministry of the Attorney General rather than the Ministry of the Solicitor General? If the Solicitor General is the primary minister of the crown responsible for the delivery and monitoring of police services in this province, why is the Ministry of the Attorney General to be involved in an important part of that monitoring process?

Now I will refer to clause 3(2)(b) on page 5 of our brief, the duties and powers of the Solicitor General.

Before the ministry undertakes to monitor boards and forces to ensure that they comply with prescribed standards of service, our association believes that those standards should be set out and understood by the parties affected in the form of regulation. We understand that it is not the practice of government to provide regulations prior to the passage of the act itself. Further, we understand, particularly given the speed with which this bill has been brought through the House recently, that it is not possible for the draftsmen to prepare even draft regulations before the bill is passed.

However, as these regulations will be vital in this and many other areas, we have been given the assurance of the ministry that the regulations will be developed wherever possible through a consultative process that includes our association as a major participant, and at this date we are prepared to accept and rely upon that undertaking.

Clause 3(2)(l): Our association has in the past few months participated in an intensive study and assessment of the delivery of the education of police officers through the present facilities of the Ontario Police College and has made significant recommendations in this regard. Though these recommendations cover only the short term, our association strongly recommends their early implementation.

Further, and consistent with the suggestions of that study, it is recommended that this section be amended as follows: "(l) Operate and maintain the Ontario Police College and improve and expand the programs and facilities for training police officers."

I will now move to page 7, under subsection 9(4), relative to the failure to provide police services. It is the position of our association that this section be deleted, notwithstanding that it is in the present act. Our brief further states an alternative wording should the section remain.

Subsection 9(5): It is the position of the Ontario Association of Chiefs of Police that a request for assistance from the Ontario Provincial Police should flow from a decision of the chief of police in consultation with the board and not just consultation with the board alone.

I am referring now to subsection 9(9) on page 8, the last sentence in that section. In light of the fact that it is neither the practice nor the policy of the Ontario Provincial Police, except in very exceptional circumstances, to charge back the cost of providing assistance to municipal police forces, it is recommended that this subsection be deleted.

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Page 9: This deals with OPP contract policing. I am referring to the second full paragraph on that page. The proposal to

disband a municipal police force has a tremendous impact upon not only the lives of the individual members of that force but also the morale and delivery of policing services being provided by the municipal force during the course of discussion of the disbandment proposal. Significant strides have been taken to address those impacts by the development by the OPP, in consultation with our association, of a protocol that the force will follow in dealing with such requests. This association strongly recommends that the methodology reflected in the present OPP protocol be incorporated and clearly spelled out in regulations.

Page 10, under part II, the Ontario Civilian Commission on Police Services and the powers and duties of the commission, subsection 22(1): The position we take here is that there must be a division between the two branches that now form under the Ministry of the Solicitor General, one being the policing services division and the other being the Ontario Civilian Commission on Police Services.

In recent years, the internal structure of the Ontario Police Commission has been altered to provide two somewhat separate branches, that section known as the policing services division, reporting to the Deputy Solicitor General, and the Ontario Police Commission, reporting to the Solicitor General. The latter has appeared to be given primarily a quasi-judicial function. We support that approach in the interests of good policing for the citizens of this province and, at the same time, fairness and justice in the administration of discipline and the assessment of the conduct and performance of police officers. Our concern is that section 22 appears to lose sight of the important division between the political executive and the quasi-judicial body to be known as the Ontario Civilian Commission on Police Services.

Refer now to page 11 in the second paragraph. Our association believes that if the Solicitor General determines that a municipal police force has failed to comply with prescribed standards of police services, the ministry could direct a board or a police force to comply. In the event of a failure to comply with such a standard or directive, the quasi-judicial branch should be structured to conduct a hearing and to determine whether the board or municipal police force has in fact flagrantly or repeatedly failed to comply with prescribed standards of police services as contemplated in subsection 23(1).

I refer now to page 12, subsection 23(1), sanctions for failure to comply with prescribed standards of police services. Though this section enables the commission to suspend or remove a member of a board or a chief of police for not complying with prescribed standards of police services, neither section 31, the responsibility of boards, nor section 41, the duties of the chief of police, require either to comply with prescribed standards of police services.

Our question is, does this mean that a member of a board or a police chief can be suspended or removed for failing to do something that was not part of his or her defined duty? It is important to note that the dismissal or the suspension without pay of a member of a municipal police services board would cause no great financial hardship to a board member. However, the same penalty applied to a police chief would cause great financial and other impacts and could result in the loss of his or her livelihood and career. Though we recognize that a chief of police may not necessarily be entitled to any more protection under the act than any other police officer or board member, the police chief should not be expected to accept any less.

This section gives significant powers to the commission which it may or may not exercise when prescribed standards of policing services or employment equity requirements are not

met. All of these powers are severe; none of these powers contemplate any progressive discipline as is followed by any responsible manager or arbitrator in a labour-management setting today. The commission's powers under section 23 with respect to a chief of police are either to suspend or remove the officer. There is no provision for an intermediate or less severe penalty and, as such, the penalties are draconian and a significant departure from the range of penalties available under the discipline sections and regulations of the present act.

I refer now to page 14, sanctions for failure to comply with requirements respecting employment equity plans. It should be clearly understood that the OACP supports the principle of establishing employment equity plans within the police service. It is the association's position, and I am referring to the second paragraph on this page, that none of the penalties contemplated against a chief of police in this subsection should exist in the act.

I refer now to page 15, subsection 23(12), grounds for appeal. To specifically mention, as a ground for appeal, the right to appeal from a finding that a police chief has made "all reasonable efforts to meet the specific goals and timetables contained in an employment equity plan" is unfair and suggests that the police chiefs will be the main culprits in any failure to achieve employment equity plans.

The association recommends the removal of this section. The right of appeal is even more onerous when it is noted that no specific right of appeal is given to a chief of police where there is a finding that a police chief has not made all reasonable efforts to meet the goals of an employment equity plan.

I refer now to page 17, part III, municipal police services boards. Our association raises the following concerns. First, to ensure a quorum, it is suggested that the minimum size of a board be five members rather than three, and second, the OACP strongly supports the provisions that require that the majority of members of municipal police services boards continue to be appointed, in order to maintain the separation between the political arm of municipal government and the police force that is charged with enforcing provincial and federal law.

I refer to the second full paragraph on page 18, under vacancies, subsections 27(10) and (11). It is suggested that the section be amended to read, "The Solicitor General shall forthwith appoint a replacement to act until the Lieutenant Governor in Council makes a new appointment."

Referring now to page 19, the chair, subsection 28(1), the OACP finds it unacceptable that a local board could not elect its own chairperson. Traditionally, committees, organizations, associations and boards elect their own chair from among their own members. They are best able to assess the qualities necessary in a chairman and the abilities of their individual members to assume that responsibility. It appears to this association that this provision is solely intended to give the provincial government greater control over municipal police services boards.

Subsection 31(1) relates directly to the subsection I just previously referred to. There is great concern that to give local boards the power to generally determine objectives and priorities with respect to police services in a municipality and to establish policies for the effective management of the force will, first, alter or reduce the role of the chief of police and, second, impose those obligations without requiring whatever input and assistance a chief of police might offer.

The association recognizes that it is a responsibility of the board to establish policies for effective management. That role, however, should not extend to determining priorities and objectives of the police service. Our concern again is that, should

boards be given the opportunity to establish priorities and objectives and should the chair be appointed by the province, the province will be setting the objectives and the priorities of a local municipality.

Clause 31(1)(d) does little to address the most significant concern for many members of the OACP. Though it gives local boards the power to determine the remuneration and working conditions of the chief of police and any deputy chief of police, in effect it enables local boards to dictate the level of remuneration, benefits and other working conditions. This is a power that the local boards do not have with respect to any other members of the force, because all those members have a right to appeal to the arbitration process.

1600

Many of our members advocate that chiefs and deputy chiefs of police should have bargaining rights. Further, our membership is unanimous in feeling that some right of appeal to an independent person or body should exist, other than the courts, if the parties cannot reach an agreement on remuneration, working conditions, etc.

In addition, the bill in the form that it received second reading contains no provision for an annual or even regular review of the remuneration and benefits of a chief of police or a deputy chief of police. We have been assured by the ministry that a provision will be added, requiring that the remuneration and working conditions of these two most senior officers be reviewed at least annually.

Referring to clause 31(1)(f) on that same page, it disturbs the OACP that, though a local board is responsible for the establishment of employment equity plans and to review their implementation by the chief of police, nowhere does the act contemplate that the chief and deputy chief of police will be involved in the development of such plans. Surely it is reasonable to require that the establishment of employment equity plans by local boards requires the involvement and assistance of the chief of police who must then implement the plan.

I refer now to page 21, in the middle of the page, the reduction or abolition of police forces, under section 40. In effect, this section in the proposed act brings into the act the present provisions of section 27(a) of regulation 790. The section provides no mechanism which would require the issue of alternative employment for those members affected by a disbandment of the police force to be addressed.

We are advised by the ministry that this section will be amended to provide for negotiation of the terms of dismissal or alternative employment for members of municipal forces affected by a disbandment or, in the alternative, binding arbitration. We look forward to receipt of a draft of these and other suggested amendments and an opportunity to comment on the same before the bill passes through committee.

I refer now to page 22, duties of chief of police, subsection 41(1). As was noted with respect to the provisions of subsection 31(1), we do not believe that a board should be determining the priorities and objectives of the police service. We request, therefore, the amendment of clause 41(1)(a) to delete the reference to the board having established objectives and priorities. We state that the police chief's duties should only include the administration of the force in accord with policies established by the board under subsection 31(1).

I refer now to section 43, at the bottom of the page, criteria for hiring. Again, this section of the proposed act brings from regulation 791, in an amended form, the present provisions of section 32, dealing with qualifications of police officers.

Our membership questions why it is unreasonable to require a police officer to be a Canadian citizen. We remind the Legislature that subsection 15(1) of the Ontario Human Rights Code, 1981, provides that a right to non-discrimination because of citizenship is not infringed where Canadian citizenship is a requirement, qualification or consideration imposed or authorized by law. We urge the Legislature to require that police officers in this province at least be Canadian citizens, rather than simply "permanent residents of Canada."

I refer now to the probationary period, subsection 44(1). This section incorporates, as legislation, the provisions in section 27(b) of regulation 791. To the dismay of the OACP, however, the probationary period has been reduced from 18 months to 12 months. A period of 12 months is simply not enough to properly evaluate a police recruit.

I refer now to page 24 and the last sentence at the top of the first partial paragraph. We recommend that the probationary period remain 18 months rather than be reduced to 12 months.

In referring to section 46, restrictions of secondary activities, I would bring your attention to number (iv) at the bottom of the page. With respect to the obligations to disclose to the chief of police and the obligation of the chief to decide whether or not an officer is permitted to engage in an activity, it is suggested that the onus be placed on police officers to disclose all secondary activities and not simply those in which the officer believes a conflict may exist, and to then give the chief of police authority to grant or deny permission to participate in such activity.

Referring now to section 47, accommodation of disabled police officers' needs, in commenting on this section we must stress that our association fully supports the rights and protections afforded to physically and mentally handicapped persons in the Ontario Human Rights Code. Our objection is that this proposed section attempts to introduce some but not all of the provisions of the code dealing with handicapped persons in the proposed act. In our respectful submission, the provisions in this section do not need to be included in the proposed act.

The provisions in the proposed act are unnecessary because the Human Rights Code, 1981, subsection 46(2) already provides that the Human Rights Code prevails over any other act or regulation unless the act or regulation significantly provides that it is to apply, notwithstanding the Ontario Human Rights Code, 1981.

On page 26, section 48, employment equity plans, the OACP has, through its individual members and as an organization, participated significantly in the assessment of race relations issues and the development of solutions to the issues raised. One of our members sitting on my right, Chief James Harding, was a most active member of the Race Relations and Policing Task Force that brought forward 57 recommendations in this area.

I refer now to page 27, auxiliary members of municipal police forces, section 52, and further to page 28. The comment I wish to make on that is the second item on page 28 starting with: "It is suggested that consideration be given to wording similar to that in subsection 52(3) of the present act which states: 'Where an emergency exists...the chief of police...may authorize auxiliary members of the force to perform police duties.'"

Further, under special constables, subsections 53(1) and 53(3), as was mentioned with auxiliary constables, qualifications should be established for the hiring, training and discipline of special constables.

Page 29, procedure if no hearing held, subsections 59(1) and 59(2), this association recommends that the penalties permitted under this proposed informal method of discipline should allow for greater punishment than simply an admonition. Our purpose for that is that the formal hearing process creates considerable morale problems and, if a maximum penalty is imposed that is less than penalties that are in the formal processes, many issues could be resolved through the informal hearing or informal discipline process as opposed to having a formal hearing.

I then refer to section 60. Many concerns have been raised by members of our association, and they can be summarized as follows: The wording of subsection 60(2) suggests that only police officers can be prosecutors at the hearing, prohibiting a lawyer to act on behalf of the police force as prosecutor, unless the force had an officer who was also a lawyer. Defence, of course, is permitted in these circumstances to retain counsel, yet the chief of police cannot retain counsel for the purpose of prosecution.

1610

I refer now to page 31, part VI, public complaints. The OACP respectfully questions whether there is a demonstrable need to institute the Metro Toronto public complaints system across the province. I say that with as much sincerity and understanding as our association can gather, understanding and appreciating the circumstances that prevail in this municipality. I am not suggesting that there are no problems in other municipalities, because there are. However, it is the position of our association that it has not been demonstrated that a need exists in many other parts of this province for a similar system.

We have a number of points to raise on this. I do not believe I will have the time to address them individually. However, I wish to state very strongly that our association does not support the institution of the system or a similar system, a modified system, of a civilian complaints process as exists in Metropolitan Toronto today.

I would address one or two points, if I might, on this particular issue. I am referring to page 32, complaints by members of the public, section 76. Clause 76(1)(c) would enable a member of the public to make a complaint about any police force at any police bureau, station or detachment in Ontario. Though our association supports the concept that a police officer may assist or inform a member of the public as to the method of making a complaint against another officer in the province, members of one police force should not be compelled to take complaints about members of another police force. Members of the public should be able to make complaints either at the bureau of the police force to which the complaint relates or at an office of the police complaints commissioner if this legislation is applied province-wide.

I would now refer to the second-last paragraph on that page. It is submitted that complainants should be required to at least sign a written statement to avoid later disagreement between the complainant and the person who receives the complaint as to what was actually alleged. At present, the legislation provides for an oral or written complaint.

On page 33, section 79: This section contemplates the processing of a complaint from someone who neither observed the incident nor was affected by the incident, and the association is very concerned that its parameters are far too broad and would lead to abuse.

On page 36, hearing by a board of inquiry, section 94. It is respectfully submitted that to give a board of inquiry the ability

to add parties additional to those already mentioned in subsection 94(1) at any stage of the hearing is absolutely unnecessary and may be subject to abuse.

On page 37, the police complaints commissioner: I am raising these issues on the presumption that the civilian complaints process would be province-wide.

Powers on investigation or review, section 99: It is recommended that a provision should be inserted in the act giving a chief of police or a public complaints investigation bureau the ability to obtain a search warrant for the purposes of an investigation similar to that provided in subsection 9(7) to the commissioner.

Under boards of inquiry, and I am referring to the second paragraph, our association strongly urges that should an inquiry deal with a complaint against the chief of police or deputy chief, then a member of the panel should be a person recommended for appointment by the OACP.

Page 38, special investigations unit, second paragraph: With respect to the composition of the unit, we would hope that the legislation might at least require that the investigators who were appointed be persons with a significant background in investigation procedures. We are also concerned that the director should be required to have a significant background in law enforcement and are concerned that if the director of the special investigations unit could be neither a police officer nor a former police officer, the field of candidates would be significantly limited. Having said that, we have supported and continue to support the notion that the director would be a non-police officer.

Our concern is to investigate homicides, which takes years of experience, and to appoint people who do not have that experience would be of concern to anyone should they be involved in one way or another with that particular investigation, either as the victim or responsible for the investigation.

In conclusion, for more than a decade the Ontario Association of Chiefs of Police has given its assistance in developing the proposed Police Services Act. We did so with the full understanding of the demand for change and to be more sensitive to the means by which the needs of force members and the community are addressed.

Policing is a demanding profession. The demands made upon the profession of policing will escalate with the changing complexity and diversity of the communities we police, and as an extension of the will of democratic government, we readily acknowledge the need to be open, accessible, responsive and accountable for the discharge of our office. Recent initiatives of the policing services division of the Ministry of the Solicitor General in developing a series of standards for policing will greatly benefit the governing authorities and chiefs of police in their roles.

The Police Services Act places extraordinary burdens of responsibility upon the office of chief of police, and to that end we would urge you to consider well before impairing any ability to effectively discharge our duties on behalf of the good management of the force and its service to the community.

The Acting Chair: Thank you, Chief Zanibbi, for presenting the views of the Ontario Association of Chiefs of Police. I would like to remind the members that our next presenters are scheduled for 4:30. We have a number of members of the committee who would like to ask questions: Mr Kanter, Mr Sterling, Mr Philip, Mr Curling and Ms Oddie Munro.

Mr Kanter: I would like to thank the chief, I guess the incoming chief, for his very comprehensive brief. I have

questions about the roles of the various actors. The act attempts to clarify the roles of chiefs and municipal commissions, provincial bodies. I take it you have no difficulty with the concept of clarifying roles, although you did have some comments about the particular roles assigned to chiefs or the municipal commission. Is that generally your concern?

Chief Zanibbi: I agree with that observation, yes.

Mr Kanter: I have two questions with respect to setting objectives and priorities which are mentioned in the legislation. Would you not feel it would be appropriate to have the municipal commission, a group of civilian people, have some responsibility for that sort of overall objective and priority position? Is it not somewhat analogous perhaps, in a political context, to cabinet ministers setting policies and deputy ministers administering those policies? Is there not some sort of analogy there?

Chief Zanibbi: I see an analogy and I would suggest that this applies in our setting. If I can offer another analogy, we as chiefs of police have quite often viewed the structure as the board of commissioners of police being a board of directors and the chief of police being the president of a corporation. In that context, it is our view that the board of directors does set the policy with regard to the management of the police force, and we have no quarrel with that.

The issue of objectives and priorities is a dynamic one. In other words, priorities change within the police service on a day-to-day basis, and as a consequence we do not see the board setting priorities which might encumber the chief from fulfilling his role as a leader of that organization. We have some problems with that particular issue and whether there is a resolve or a meeting point somewhere, but we wish to be very firm on the fact that the management responsibility of the force lies with the office of the chief of police in that context, in identifying the priorities and objectives of the force, because I would suggest that, properly exercised, that office is in tune at least as well as, if not better than, the other members of that board of commissioners of police.

Mr Kanter: I understand the concern and I share your hope that we could come to some accommodation or agreement on that point. I think there will not be a watertight line between policies and objectives and priorities, and they should be done in consultation whether the lead is taken by the commissioners with consultation with the chiefs or the other way around. Ideally there should be close consultation and co-operation on those.

If objectives and priorities are to be set, whether it is by the commissioners or by the chiefs, how is that done? Or how should that be done? Is it done in consultation with the community? Is it done by meetings with the community? Is it done through public opinion polls or surveys? How should objectives and priorities for policing be set?

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Chief Zanibbi: I would suggest that in a large measure they should be determined by identifying community needs through communication with the community. As the community needs are determined, then the objectives and the priorities should be established on that basis. It can be done through recommendations from the chief of police and in consultation with the board, through meetings with the board. However, the area of setting those objectives and priorities has to flow from the knowledge and awareness of what that community's requirements are through the staff of the organization, the officers

who make up the organization, in identifying what those issues are and developing those objectives based on that information.

Mr Sterling: First of all, I would like to thank the association for a very comprehensive brief. I turn back to the second sentence of your brief, which says, "The consensus of agreement arrived at by participating agencies has greatly reduced the number of issues...." Then, listening to you talk about issue after issue, I was just wondering what kind of a list was there before the consensus was reached.

I do find the brief a little overwhelming in terms of the number of issues that are still left for debate. I guess I am somewhat concerned with this speed and haste with which we are dealing with a very important piece of legislation. We would dearly love to engage in debate on a number of the areas of concern. One part that concerned me, in terms of the process that we are going through, relates to the smaller police forces in the other parts of Ontario that are not having an opportunity to participate and the ones that are not, as you point out on page 2 of your brief, under the burden of the extraordinary circumstances and change that is occurring. You have said, if I am reading you correctly and hearing you correctly, that you do not believe that a police complaints process as envisaged by this act is necessary for all of Ontario. Is that correct?

Chief Zanibbi: That is correct.

Mr Sterling: The other thing I would like to ask of the Solicitor General is I would like him to respond to the committee, in writing, to the suggestions made by this particular brief, on a section-by-section basis, so that we can focus the debate later.

One of the areas which other groups have talked about and which was not mentioned in your brief, because it is not included in this legislation but no doubt will come up for debate by the committee, relates to the investigation by the special investigations unit. The suggestion by other presenters is that it not only be instigated at a later stage in the process but at the very initial stage when the complaint is filed. What is your reaction to that kind of a suggestion?

Chief Zanibbi: Is this the complaints process with regards to the investigation of the complaint?

Mr Sterling: Yes.

Chief Zanibbi: I am not sure I understand.

Mr Sterling: As I understand it, under section 112 the director really initiates the investigation and it only occurs after certain things trigger. If I as a citizen lay a complaint, then there is not an initial investigation right off the bat by the independent or special unit, or there is no independent investigation of a complaint. In some cases there will still continue to be an internal investigation that will take place by the police of their own people. There is a suggestion by other people that the independent investigation should take place immediately. I just wanted to know what your reaction to that suggestion might be.

Chief Zanibbi: This relates to investigations generally where someone has suffered some harm as a result of police action. That is what we are referring to under section 112 here, as opposed to a complaint of lack of service or something of that nature. We are talking about a more serious incident in this case. The way the legislation reads now, you are correct, there would not necessarily be an investigation in each incident but rather where it is suspected that a criminal act has occurred on the part of the police officer.

We expand on that in our brief. I did not read it, but we have concern about that wording. Our view is that the investigation, if it is to be seen to be independent by the police and of that police force, almost assuredly should be conducted in every instance where someone suffered some serious injury as a consequence of police action. But it is left to the determination of government to institute the investigation. Our position—and it is not stated; you are correct in that respect—would be that if there is a choice we would rather see the investigation conducted in each instance by an independent body as opposed to the local police force investigating itself, if that answers your question.

Mr Sterling: I think there are a lot of issues that should be discussed. I really believe that this committee should be travelling across Ontario and hearing other areas talk about this act. Do you think we can do justice to this act in two weeks in terms of coming to a reasonable and logical—

Chief Zanibbi: I think it might be inappropriate for me to respond to that directly. What I can say, though, relative to your concerns about all the other, smaller police forces—and of course there are some 118, I believe it is today, because we are shrinking as far as municipal police forces are concerned—is that our association took the time to go about this province and solicit input from every part of this province: north, east, west and central. So this brief represents a cross-section of all of those police forces.

Mr Philip: Thank you for an interesting brief. Certainly we will be raising some of these issues in clause-by-clause. I think that is the way in which we should handle it with the minister.

I was interested in the matter of the probation of police officers. I do not know where it came from and at whose instigation, but the reduction struck me as rather interesting. Do I take it that you feel a police officer is not fully trained after 12 months and that there is a need for more on-the-job internship, if you like, in order to really certify that that person is a qualified police officer and that is why you want the extension? Do you want to return to what the present status is?

Chief Zanibbi: Yes, we do. We support the 18-month probationary period. Who is to determine, from a time frame point of view, whether 18 months is adequate? Certainly I would not want it, nor would we want it, any less. The purpose and reason for that is that in that first 12-month period, to a large measure, that new recruit is in either an academic setting or is working with a coach officer, a second officer in the car, for the majority of that 12-month period. As a consequence, there is no assessment of the individual as to how he or she performs on his or her own. That is the underlying reason why we believe you should at least retain the 18-month probationary period. We feel that 12 months does not allow us to assess a person functioning on his own.

Mr Philip: Is it not true also that at the present time there are waiting times to get into Aylmer and so forth and therefore that with a 12-month period you may have somebody who has not even undergone the full academic training, let alone the practical work that you wish to put him through?

Chief Zanibbi: There was a concern with respect to the entry to the college. I believe that has been alleviated because we have been able, through dialogue, to identify our concerns there. So I do not believe that is an issue today. Our priority was

to have recruits in the college, and as a consequence some other courses were moved to facilitate that.

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Mr Philip: On your answers to Mr Kanter on section 31, I guess I am still somewhat confused as to what it is that 31 does to you that is objectionable that is not presently being done to you under the present system. Most of the items in section 31 just strike me as good management, that you, as a public servant, are there to carry out the objectives of those who are appointed or elected, as the case may be, to make policy decisions and that it is common sense on the part of the policy decision-makers to consult the chief administrators, who in this particular situation are obviously the chiefs of police.

I wonder how 31 really changes your situation. I realize that the players at the top may be different, because of the way in which they are appointed, but how is the process changed by 31?

Chief Zanibbi: At the present time, first of all, the roles are not defined within the present legislation in the context that they are in the proposed legislation. As a consequence of that, I would suggest that the chiefs have a greater latitude in the present legislation with respect to setting priorities and objectives for the operation of their police forces. Now that they are defined, it is a cause for concern on our part that the priorities and objectives would be set by the board. There is no determination there where the chief's involvement would be given consideration. We believe it is a function of management to set goals and objectives and we believe the chief has the responsibility of managing the police force. As I made reference to earlier, the nature of police work is such that we have to make determinations relative to priorities on a much more timely basis than consultation with a board that might meet once a month or once every other month, or whatever the case might be, might allow us to do.

Mr Philip: But surely those sections in 31 do not contemplate setting objectives at what I would call the micro-level; you know, how many officers and auxiliaries are you going to send to the strawberry festival on 21 July or something like that. They are overall general policy objectives. As a manager, I would like to know precisely what the expectations are of me. I would think this would simplify your role, make it easier, make it clearer to you as to exactly what your responsibilities are and what the line of command is and, in a sense, make it a lot more objective and more difficult, if you want, for you, if you are doing your job properly, to be blamed for something that is really a policy decision. Sorry I am spending so long defending the government.

The Acting Chair: We appreciate it.

Chief Zanibbi: It is a matter that we feel very strongly about. It is not clearly defined. The way it is worded at the present time would seem to exclude the chief in this process. Maybe that is not the intent, but it is the way it is written and you could be held to it. Notwithstanding that, the chiefs' position, I would suggest, is to set those objectives for their subordinates and develop the expectations relative to those staff so that there is clear understanding of what is expected by their chief administrative officer.

Mr Philip: One last question then, because I do not want to take up too much time, and that is that I am sure you would agree, from watching the proceedings or from perhaps hearing some of the other briefs, that there is this kind of ongoing

debate as to whether we want to be centralist or decentralist, if I could use those kinds of poles. I am sure you would agree that there are certain standards or certain objectives that should be set centrally by the provincial government and others that should be dealt with locally and implemented locally.

If we look at section 133, the regulations section, some of the major decisions are going to be made by the minister behind closed doors, by orders in council. Are there any of those items that you feel should be sent out for comment, for further public input, to you, to community groups, to other interested parties before they are defined via regulation?

Chief Zanibbi: In referring specifically to standards, and we do address that in our brief, there are some 20-odd standards now that have been promulgated by the ministry to police forces in this province for their consideration. There is no mandatory requirement to apply them. However, they are in place at the present time and, I am sure, being practised by most police forces.

With respect to the number of regulations referred to under section 133, it is once again our understanding that the process for developing these regulations will be a consultative one and that our association will be a party to that consultation.

Mr Philip: It would have been much easier from a consultative point of view if the committee had had at least a draft version of those regulations so that you could have consulted with all of us on this in an open fashion, rather than our being forced to pass judgement on a bill, the major decisions of which we do not know because they are all under section 133, which is the regulations section.

I am not asking for your comment on that.

Chief Zanibbi: Okay.

Hon Mr Offer: Thank you very much for your brief.

There are two short points I would like to make. One point is based on your concern about the setting of policy directive by the local board, that it should be only after consultation with the chief. That is something which we agree with. I indicated we would be moving an amendment to that purpose. So dealing with that concern which you have brought forward to the committee, I would like to assure you that there will be an amendment moved by the government that will, without question, indicate that those types of decisions by the local board of commissioners, important as they are, will only be done after consultation with the local chief of police.

The second point which I would like to make is in the form of a question. It has to do with the question you posed to the ministry on the rationale for having the public complaints section with the Ministry of the Attorney General. That is where it is now and has been since its inception. I think it has been quite successful. Why do you feel it should be moved from where it is now, in the Ministry of the Attorney General, to the Ministry of the Solicitor General?

Chief Zanibbi: Our position is that we believe your ministry has accountability for the police services in this province. With the structure that you have at the present time, having in recent years divided the role of the former Ontario Police Commission, there is an opportunity to deal with the issues that you face relative to investigations and conducting hearings.

The existing Ontario Police Commission, being a quasi-judicial group, has the opportunity of being removed now from the investigative body, which could be the policing services division. In our view, that lends itself to the ministry being able

to administer the public complaints section. That is the position we see the ministry now having that it previously did not have.

Mr Curling: Bill 107 came about because of extensive task force and public input and concerns about policing in our province, and also because of the realization that in over 40 years this Police Act has never been amended in any way to reflect the reality of what our population is all about. You made comments about that.

I think your brief is quite extensive. It is unfortunate, of course, that time is so short. I am glad a suggestion was made that maybe the Solicitor General's office or the Solicitor General himself might comment on some of the things you have mentioned here which you did not have time to discuss.

Of course, we have such vast experience sitting before us now. We have two chiefs with extensive experience in the police force. A lot of emphasis has been placed on training when we get those individuals in our force. I have not heard very many comments about the recruiting process and psychological tests of individuals coming in. Maybe those you are getting in the force are beyond repair in some respect. Maybe the type of training will never bring them to be the individuals that you want. Do you feel that sufficient tests have been done for those types of individuals who will be police officers in your force?

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Chief Zanibbi: Once again, we are talking about a number of police forces in this province. As a consequence, there is a variety of standards that are applied to the recruiting process. It is an individual standard that is applied. I would suggest that in most jurisdictions the standard of recruitment, the testing, the screening process meets the standards that anyone would wish to apply to them. I suspect that maybe in some municipalities, and I am not trying to be specific here, it may not meet that standard.

There is ongoing dialogue as a consequence of the Race Relations and Policing Task Force recommendations. We are talking in terms of looking at a standard screening process across the province. That is being given consideration, and there is dialogue towards achieving something of that nature. That has not been determined as yet, but it is not something that we would be necessarily opposed to.

Mr Curling: Maybe I have got you wrong about employment equity, that goals and objectives should be determined by the local commission. I do not know whether I heard that properly. Who should set those goals and objectives, especially with regard to employment equity?

Chief Zanibbi: With respect to this legislation, there are two different sections. The employment equity plan is to be developed by the board, and there is no opportunity for the chiefs to participate in that according to the legislation the way it is presently drafted. But the chief is responsible for the implementation of the plan and is held accountable for it and can be either suspended or fired if he does not comply. We feel there is an unfairness to that. If you are going to be held accountable, surely you should have the opportunity for input in the development of it.

The Acting Chair: I would like to thank the Ontario Association of Chiefs of Police for its presentation. Representing them was Chief Richard Zanibbi from the Sudbury Regional Police; Alvin Barber, chief of the Brantford city police; James

Harding, chief of the Halton Regional Police Force, and Ronald Cork, a solicitor with Warner, Cork and Siegel.

CITIZENS FOR FOREIGN AID REFORM INC

The Acting Chair: Our next presentation is from Paul Fromm. Mr Fromm, we invite you to come before us. We generally allocate 15 minutes to half an hour for private citizens. We would like you to make your presentation to us, and you may want to leave some time available if any members of the committee have any questions.

Mr Fromm: Thank you very much, Mr Chairman. Ladies and gentlemen of the committee, if I may digress in an aside just at the beginning, I would like to congratulate the Solicitor General on winning his nomination fight in Mississauga North last night.

Before we address ourselves to the specific items in Bill 107 that concern us, I would like to give a little bit of background to the members of the committee to Citizens for Foreign Aid Reform, the group I represent. C-FAR was incorporated as a non-profit, educational organization under the laws of Ontario in 1979. We are an educational and advocacy group.

Our two major areas of concern are foreign aid and immigration. On the latter topic, we publish a monthly newsletter called the Canadian Immigration Hotline. A regular feature of this newsletter is called Crime Watch, and this probes the failure of present immigration laws to detect, detain and deport criminal elements among immigrants and refugee claimants to Canada. We also explore the cultural and societal impacts and changes brought about by Canada's current immigration policy.

As Bill 107 is the government's response to the report of the Race Relations and Policing Task Force, which was prompted in the main by perceived conflicts between police and immigrant minority groups, we find some of the measures contained within Bill 107 to be part of our areas of concern.

I would like to outline the five areas of concern. I will begin by saying that most of the principles outlined in section 1 of the act are laudable and certainly worth while. The emphasis on providing safety and security for all in Ontario, on respecting the rights of all as guaranteed by the Canadian Charter of Rights and Freedoms and on promoting the co-operation between the "providers of police services and the communities they serve" are all certainly worthy of support.

However, we have five major areas of concern, three flowing directly out of sections of Bill 107 and two dealing with the political atmosphere and the lack of leadership in dealing with the conflict between police and visible minority groups. Specifically, our concerns are:

1. C-FAR opposes paragraph 1.6. That is the principle that there is a "need to ensure that police forces are representative of the communities they serve."

2. C-FAR rejects as discriminatory, especially against white males, subsections 48(1) and (2), which require that "Every police force...have an employment equity plan" with "specific goals and timetables" for "the implementation of positive measures and the composition of the police force."

3. C-FAR strongly opposes the loss of local autonomy contained in the provision that the Ontario Civilian Commission on Police Services have the power to suspend or remove a police chief, a member of a police board or the entire board where "the commission is of the opinion...that a board or municipal chief of police has failed to comply with...the regulations respecting employment equity." Those are clauses 23(2)(a), (b) and (c).

4. C-FAR deplores the lack of political leadership in confronting the wild and outrageous charges of racism levelled against police forces, especially those of Peel region and Metropolitan Toronto. Minority extremists have been given aid and comfort by politicians who have sought to put police, rather than the criminals, under attack. Proposals that police be required to file a report every time they draw their handguns and suggestions that racism may underlie police conduct in arresting blacks tend to undermine police morale and weaken our law enforcement officers who man the thin blue line against anarchy and the rule of the jungle. You need only travel to any major American city to see what we do not want to become.

5. C-FAR believes that fatuous theories or woolly-eyed ideals are no substitute for facts in public policymaking. Therefore, it is essential that crime statistics be kept by race and be made public. I would like to look at those concerns in a little more detail.

Must police forces be representative of the communities they serve? One, of course, is tempted to answer yes. It seems reasonable. Certainly police forces should reflect the ethnic variety of the community they serve. Certainly there should be men and women and people of various religious communities on each police force. However, the sixth principle that is to guide policing in Ontario goes beyond stating what is desirable in a general way and makes it a prescription. It says it sees a "need to ensure that police forces are representative of the communities they serve."

"Representative" seems to suggest a simple-minded slavery to statistics. Thus, if a group apparently is X per cent of the population in a given area, it ought to compose X per cent of the police force.

Breaking Through, which is the employment equity newsletter of the Ministry of the Solicitor General, highlights a recent message from Commissioner Thomas O'Grady. He noted that "racial minorities comprise 10% of Ontario's population....Last spring less than 0.2% of the uniformed OPP belonged to racial minorities. Such numbers are not acceptable."

It would appear to be that the thinking is that the population should be more or less exactly represented on the police force. It is our submission that this, short of major distortions in the job market, is not possible.

I would like to take a couple of examples. The fact is, for a variety of cultural and other reasons, policing will be far more attractive to some groups than others. For instance, people who have recently come from highly oppressive societies have a very bad opinion of the police and, as refugees, probably would not want to be police, at least not in the first generation, maybe not even in the second generation.

Another area that I am sure some will find controversial, but I think people in their hearts know this is a fact: Due to the danger and physical nature entailed in much of police work, many women will be deterred. Not all certainly, and some have served with distinction, but I do not think it is any surprise that our police forces are going to have trouble achieving a 50% component of women, which they would have to achieve if they were going to be representative of the communities they serve.

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By making representation of the various components of a community a prescription—that is, the police forces have to achieve this or else—Bill 107 is seeking to impose theory on reality. Similarly, policing is not seen to be an attractive career

in every ethnic community. This generalization need in no way deter interested individuals from these communities from being police officers. I think that is why it is very important that your committee consider amending—actually, dropping—that as one of the principles guiding policing, because, unfortunately, if you accept that as a principle, you lead right into the next thing to which we feel we have to be extremely opposed, and that is the employment equity section.

It is our belief that employment equity is just a hopped-up bureaucratic term for discrimination against white males. When push comes to shove, that is precisely what it will do. If we agree that the government must ensure that police forces are representative of the communities they serve, the next logical step is affirmative action or reverse discrimination—plans to make certain that a representative number of each group is promoted and hired.

The wording of subsection 48(2) makes it clear that the government intends to go beyond informational outreach to underrepresented groups. I do not think anybody could have any disagreement with trying to reach groups that otherwise have not been very much represented on police forces, making young people in these groups aware of what a career in policing might entail. If that was all that was meant, I do not think anybody could object to it.

However, it is clear that something more is meant. It is one thing to present information to groups that have not shown much interest in policing as a career. However, the language of subsection 48(2) requires "specific goals and timetables with respect to...the composition of the police force." It is hard to see how such goals and timetables can be achieved without discriminating against the group that is now alleged to be over-represented; namely, white males. I think such discrimination is absolutely unacceptable.

The demand for more minority representation on the police force is a smokescreen thrown up by the Race Relations and Policing Task Force. We presented a brief to that task force and it was clear to us at that time that the task force had bought a pig in a poke, no pun intended. It was suggested then that certain minorities feel alienated from the police or commit crime because their group is underrepresented on the police force. I think if you step back a moment and think logically, you see that the notion is preposterous. It is hard to credit that an individual would choose to steal a car or drive without a licence because his group is underrepresented on the police force.

It is our understanding—and I am afraid I do not have the figures in front of me, but I think, once again, most people will accept this as accurate—that women are far less likely to commit violent crime than men, yet women are significantly under-represented on the police forces of this province. If lack of representation on the police force led a group to commit crime, women ought to be among the most notorious criminals in this province, but they are not.

It is our belief that dickering with the composition of our police force, especially if it means discriminating against white male applicants, will not solve the problems of crime in this province.

The third objection: employment equity or you are fired. For the same reasons we oppose discriminatory employment equity, we as strongly oppose the iron fist built into this legislation which allows the Ontario Civilian Commission on Police Services to suspend or remove a police chief, police board or police board members for failing to implement the regulations respecting employment equity. This aspect of Bill 107 would

substitute the judgement of remote individuals at Queen's Park for the judgement of people closer to the problems of policing in the community in question; namely, the police chiefs and/or the board members.

The Acting Chair: Mr Fromm, I hate to interrupt you at this point, but I have had the opportunity to scan your presentation, particularly your next section. I have to advise you that our standing orders prohibit this committee from discussing or hearing evidence relating to any matter that is presently before the courts. I have to tell you that in reviewing the second and third paragraphs of your next page, it is my opinion that they come dangerously close to matters that are presently before the courts. I would ask you not to read those two paragraphs into the record.

Mr Fromm: Fair enough. The reason we decided to present a brief in the first place was our concern that the government appears to have buckled under the problems created by recent police shootings and events and that this bill was seen as a sop to one section of the community. It is obviously a very comprehensive bill and, I think, ought not to be moved forward in quite the swift way that is being done and that there ought to be more extensive hearings for further input. This really is the reason we have come before you, because we feel there is a dreadful lack of leadership in the political sector in Canada. With very few exceptions, municipal and provincial politicians, in our estimation, should hide their faces in shame for their cowardice and failure to lead in the current campaign by minorities to vilify our police.

At a recent police rally an activist accused the Metropolitan Toronto police of being "the most brutal, murderous police in North America." This got very, very extensive coverage. On 1 June, Akua Benjamin of the Black Action Defence Committee asserted, "Racism is rampant in the police force."

Now, as the Chairman does not want me to read the remaining two paragraphs into the record, perhaps I could go at it in a slightly different way and simply suggest that we may not know what has happened in each of these incidents, whether the police officers used excessive force—

The Acting Chair: Mr Fromm, our rules specifically prohibit us from discussing matters that are before the courts and I would ask that you not refer to any of those incidents in your presentation.

Mr Fromm: It would seem to me then, until otherwise proven before a court that an officer acted in an illegal way or acted motivated by racism, that political leaders ought to confront people who make charges like that and suggest that it is just plainly not true, particularly the comment that police in Metropolitan Toronto are the most brutal and murderous in North America. There is not a shred of evidence to suggest that. It seems to me that it is perfectly easy as legislators to pass all sorts of regulations that are going to hamstring the police, endless boards of inquiry, and police, being human beings, will quickly learn the rules of the game. The rules of the game will be: If we enforce the laws against certain people, we end up charged; if we enforce the laws against certain people, we end up jeopardizing our careers.

If you want to see the results of that, you need only go to some of the cities in the United States where there are no-go areas where the police virtually do not enforce the law because they have been so hamstrung by legislation and regulations. I certainly think we can expect the police to treat everyone in the community politely and professionally. However, I think it is

also a reasonable expectation that individuals will be polite and co-operative with the police. I think this is something that politicians should be talking to all groups about, particularly the groups that are protesting. In most of the incidents which have come to public light and from which the charges of racism have emerged, there seemed to have been laws broken, there seemed to have been a confrontational situation. The police are not cruising the streets gunning down blacks or people of other minorities.

I think it is incumbent on the community leaders who are crying racism and on the politicians who apparently give these cries a fair deal of credence to say, "It's really up to you people to try to teach whatever elements in your community are coming into conflict with the law the basic rules of the game." The rules of the game are simple: If a policeman questions you, you should respond in a polite fashion; if you are asked to stop, you should stop; if there is a disagreement about what the police have done, there are many, many channels for a complaint to be launched; but defiance of the police, or ignoring the police, or menacing conduct towards the police are the types of conduct that in almost any situation might put you in some jeopardy.

Without dealing with the specifics of the case, it is a little hard to go much farther than that, but it seems to me that the politicians have given inordinate credence to the charges of racism which, it seems to me—again without going into the cases, but it is there in the brief—are simply not sustained. If the Metro Toronto police were so racist, why are they not shooting more people of other visible minority groups—Orientals and East Indian, etc—who are equally visible?

I think the problem lies also in—and this brings me to the final point—let's get the facts. We cannot make public policy in a vacuum. As Sergeant Joe Friday of the old *Dragnet* series used to demand: "Just the facts, ma'am. Just the facts." It is an open secret in Metro Toronto that a disproportionate number of crimes, or at least certain crimes, are committed by members of the black community.

1700

Police Commissioner June Rowlands suggested that over a year ago when she said that a minority among black youth are out of control. That is a minority, that is not all.

Superintendent Fantino revealed statistics for the Jane-Finch area last year that indicated that while blacks constitute 6% of the population of the police division in that area, they committed close to 50% of certain types of crime.

Christie Blatchford of the *Toronto Sun* says: "I believe black crime in Toronto is disproportionately high. But what no one is acknowledging (but what police and West Indians alike know full well) is that what this city really has, in large measure, is a Jamaican crime problem."

We demand that crime statistics be kept by race and be made public. Only with full factual knowledge can we and yourselves make effective public policy. If these indications that a disproportionate percentage of crime is being committed by some members of a certain group are true, we can more readily understand police apprehension in dealing with confrontational—and that is not all members—members of that group. We can then try to analyse the reasons for these crimes and try to devise solutions. We can also then more effectively defend the police and refute the extremists who cry racism. We can then tell these self-appointed leaders to stop crying racism and instead to turn their efforts to counselling the lawless elements in their own community to obey the law.

In conclusion, C-FAR urges the committee to amend Bill 107 so as to remove subsection 1(6), "the goal of ensuring that police forces are representative of the communities they serve"—particularly that word "ensure."

We urge you to amend and remove subsections 48(1) and 48(2), which mandate every police force to implement discriminatory "employment equity" plans which, by their nature, will discriminate against white males; and to amend, by removing, clauses 23(2)(a), (b) and (c) which permit the Ontario Civilian Commission on Police Services to suspend or remove a police chief or board members for failure to implement "employment equity" programs.

C-FAR further calls on the political leadership of all three political parties as well as municipal leaders to strongly support the competence and professionalism of Ontario's police officers, to reject the wild charges that police are racist in the performance of their duty and to insist that crime, not racism, is the issue. In a word, politicians must stand up to the outrageous nonsense now being perpetrated by some minority leaders. We must stop letting the minority tail wag the majority dog.

Finally, C-FAR demands that Ontario policymakers and citizens be provided with the facts so that they can make informed decisions. Crime statistics should be kept by race and should be fully disclosed. In this matter, we urge the committee to call Professor J. Philippe Rushton of the department of psychology at the University of Western Ontario. He has recently published some interesting findings on this and related questions in the *Canadian Journal of Criminology*, volume 32, for the year 1990. In this study he has relied on data about crime submitted by a variety of countries to Interpol, and we have appended a portion of this article to the brief. It is extremely thick and abstruse scientific material, and I would not want to pretend to even interpret for you what it means, but I would urge the committee, if that is within its procedural policies, to call Professor Rushton because I do believe he has material that might be of help in your deliberations.

Mr Runciman: I would just like to ask the Solicitor General a question. Mr Fromm made reference to the question about a community having perhaps 50% of its population made up of females. He indicated that because of the requirements of the act the force, over a period of time, would be required to reflect the community. Does the Solicitor General share the view that this indeed would occur?

Hon Mr Offer: I think we have to recognize that when we are talking about employment equity we are not talking about quotas. What we are talking about is reducing barriers to employment. What we are doing is asking police forces to see their particular areas and take a look at the makeup of their areas and to reach out to the communities as a whole, to say that policing is a profession for all and to invite anyone and everyone who has the qualifications and the commitment and the initiative to consider policing as a profession. It is not quotas; it is removing barriers to employment.

The Acting Chair: Thank you, Mr Fromm, for appearing before the committee.

CONCERNED CITIZENS FOR ORDER, PEACE AND SECURITY

The Acting Chair: Our next, and final, presentation of the day is from Concerned Citizens for Order, Peace and Security—Connie Boyden. Ms Boyden, we will allocate 30 minutes of time. We would ask you to make your presentation

in that time and leave some time available if the members of the committee wish to ask any questions.

Ms Boyden: Can I just comment on one thing first, about statistics? I was speaking to somebody just before I came in here and we came up with maybe a reasonable way of presenting it to the black community. One of the tenets, so to speak, of community-based policing is that you identify crime in your area. Unless the black community does do that and knows what it is dealing with, it is going to be very difficult for it to handle the problem. If you take the idea that we are looking at a community-based policing model within your community, we have to identify where the problem is. It might be a better way to sell it to everybody. I do not know if that is worth thinking about, but I was just talking about it with somebody before I came here. Since we were just talking about it, I thought I would just throw it out.

Over the last five years I have completed papers on the police family, policewomen and major sources of stress in the police occupation as well as doing empirical research on potentially stressful incidents in the police occupation. I have also completed a literature review, *The Socialization of Police*, which, in part, was the basis for my master's research, which is titled the same. This research was done in November 1989. I now have a master's degree from the University of Toronto with a focus on counselling. With this background in mind, I would like to comment on the proposed Bill 107, the Police Services Act, and look at the potential psychological impact on: (1) the police community and (2) the silent, law-abiding majority.

My master's research into attitudes, perceptions, experiences and influences on police studied 284 Ontario police officers from various policing environments. The issues covered by the research included restrictions on police, interactions with the general public, visible minorities, police investigating other police, the news media, the court system, interactions with the victims of crime, support from management and the effects of police work on the individual police officer. That is pretty broad, but that is the way I wanted to do it. The questionnaire took about a half an hour to complete, but I was given permission to spend up to about two hours in the class with the individuals to talk about the research afterwards, so I got a lot of input from the people just sort of off the cuff.

For the record, the police officers who participated in my research probably thought I would get the information, get my degree and everything would be shelved in Never Never Land, so they had no reason to polish their responses for public scrutiny. Furthermore, the research questionnaire was anonymous, so again, as a result of this, I believe they told me what they sincerely feel. In fact, I never dreamed that I would be here today making this presentation, and if I had thought of that at the time, I probably would have changed my subject. This is the first time that I have ever done something like this, but when I get into the conclusion part you will know why.

Based on comments gleaned from my research and my knowledge of psychology, I would say there is a serious morale problem that political leaders seem to be sidestepping in the hope that it will go away. There is a "feeling" crisis not unlike the "feeling" crisis experienced in the black community, and I hope it does not escalate into militancy or apathetic responses, as it has in this group, to try to make a point. In fact, there are very many similarities between the black community and the police community, and in my paper I do discuss that.

There are many factors causing the decline in morale, but I would like to focus my comments on two areas as related to this

particular hearing; namely, the public complaints system and the concept of a civilian review board, which also includes a discussion about police investigating police. Then I will also mention some of my study's conclusions.

1710

With regard to the public complaints system, my concerns take the form of questions: How can this Police Services Act ensure that people will not use the complaint procedure to create smokescreens for their own illegal behaviour or their own obnoxious behaviour, and can this act include deterrents for misuse and abuse, instead of having a separate law elsewhere to handle the potential problem?

If they take the public complaints commission into the Solicitor General's department, that puts the public mischief charge in another department, and I think the two should more or less be together.

I realize that the public complaints commission does more than just handle complaints, in that it acts as an advisory body for police forces as well as being involved in educational pursuits and outreach programs to the public. In fact, when I was thinking about it after, I thought that maybe they should rename it, because I understand that this commission cost us several million dollars last year to dispose of 594 complaints. That does not seem like very good dollar sense. So maybe they ought to think about renaming it, just changing the name of it to be a little different than the public complaints commission.

I would think that the law-abiding public, as well as police officers, would want to know that this commission is not going to be a large expense of minimal value because bona fide wrongdoers make the most use of its function. That is the concern I have.

Since the name suggests its primary function is to deal with complaints, I wonder if any of the 200 withdrawn complaints had the charge of public mischief laid to show that it protects the police as well as the public from miscarriages of justice. If this commission is not seen by the police to be a balanced forum where difficulties are really and truly ironed out, then it will likely be perceived to be a kangaroo court which will do nothing to help this morale problem that is there.

I would like to make it very clear that no one, including the many police officers I have had the opportunity to deal with in my research and elsewhere, wants to see a disreputable police officer play with the rules to escape punishment. However, any corrective system must be perceived to be fair and unbiased for everyone concerned. I know that you have probably heard this time and time again from the associations, but I would like you to hear it from me as well.

The demands for the civilian review board implicitly suggest that a majority of police cannot be trusted to investigate their own because of peer pressure influences. My research suggests, however, that a majority of police officers investigate their own more carefully, just to prove they are not biased. Furthermore, police officers are keenly aware that their actions are scrutinized by the public.

Peer pressure to support one another is especially strong when a group—and that means any group—feels outnumbered, unheard or relegated to the status of second-class citizens in their own minds. Therefore, it would be my educated guess that both the black community and the police community share a similar trait: both groups endure peer pressure which probably contributes to the mutual distrust that hampers productive two-way communication.

One way to ensure that police officers do not succumb to peer pressure is to make them feel part of the bigger community group, as in the case of community-based policing. Conversely, making them feel that they belong to a group that is constantly under attack from those people they are supposed to protect only reinforces the solidarity as a means of survival. The community ought to accept a good part of the responsibility for the creation of the "us against them" syndrome that police officers singularly seem to be criticized for.

On the surface, a civilian review board seems like a good idea except for certain psychological implications of the implicit message it gives to the police community. From the officer's point of view, if a majority of police officers believe that they do their jobs to the best of their ability, then why should a situation exist, backed by law, that implies they do not. I realize that this is not in the act, but there is certainly a lot of pressure to have it, and I cannot see it helping anything.

This becomes especially important when 90.8% of my research respondents agreed—and there were 57.7% in the "strongly agree" category—with the statement, "Police officers believe politicians appease pressure groups without considering the effect it has on policing." There is quite a mistrust there. Before you even think about a civilian review board you are going to have to rebuild that trust and then maybe you can talk about it.

Another point to consider is what implicit messages are being given to the public. Is the message saying that the majority of police may not have enough integrity to police their own? Fortunately, most of the public just does not accept this perception and in fact are becoming very upset when the integrity of the police force is questioned.

Through my work with the CCOPS organization, I am experiencing a backlash effect that should be really a point of concern. The silent majority who support our police are getting angry at the press, they are getting angry the politicians and the critical, demanding people. Instead of two factions trying to solve a problem, we now have three. I compare this situation to a family where everyone has a strong point of view and the loudest mouth usually intimidates everyone else into silence. Unfortunately, this silence becomes a cover for festering anger that eventually finds its expression through inappropriate behaviour.

I do not want to see tyranny of the majority, but I also do not want to see tyranny of the minority, and I think we have to be very careful of that now that there seems to be three factions, everybody getting angry, and I am doing my best to keep this other part cooled down.

To summarize, police do not like bad apples carrying a badge any more than the rest of us do. However, I would suggest that a public complaints commission that does not make deliberate efforts within the scope of this proposed Police Services Act to punish misusers of the system will not be perceived as being fair or unbiased from the police officers' perspective.

Furthermore, a civilian review board would only serve to crush police morale even further than it is now because of fears that the police community has about the political interference and expediency becoming the measuring stick to its actions. You can only change by gaining the trust, and that is the bottom line.

At this time I would like to quote from the conclusions of my study to show what worried me enough to venture into this political arena:

"The police officers in this research feel that they are looked upon as the 'bad guys' to be criticized, instead of the

'good guys' to be appreciated. The perceived trend to criticize the police community at every turn, coupled with demands for police officers to be more humane, has the police community in a bind. Police as a group believe the media and the politicians are not being fair or supportive of their positive aspects and do not respect the fact that they are human too. It is difficult to be all things to all people, especially when there are manpower and equipment shortages.

"In general, police officers believe they are taken for granted and often scapegoated for the social ills they can't fix, but must deal with daily. Currently, some of the laws, regulations and standing orders make police officers feel they need to be 'superhumans' to remember everything so as not to be hurt or complained about." I have seen that book that they are supposed to know and I do not know how they do it. "The constant criticism police feel they endure hurts the 'self' image of the police community"—at large—"in much the same way criticism harms...individuals (ie, women or children). A sense of feeling degraded and dejected develops."

It is the same kind of dynamic that is going on. You cannot criticize somebody over and over and over again, it does not matter who it is, without something negative happening.

"Furthermore, there is an expectation that they can be emotionally inert (except for the good emotions)"—of course—"both on and off duty. Police officers are expected to be police officers 24 hours a day. As such, the Police Act seems to prevent them from enjoying the 'rights' an average citizen has to legitimately vent feelings of frustration or concern on topics they know a lot about."

In my study I talk about the breach of confidence, better known by police officers as the bridle clause. That particular section is not clear in their minds; they interpret it differently. When I first read it I thought, "Jeepers creepers, this really sounds like something." I understand why it is there. It was explained to me why it is there, and I lay that out in my research as well, why it is there, but there is another side effect that is happening, that the police officers are just feeling they cannot say anything, and that is putting somebody into a very bad position.

"This results in a strong feeling that the system puts them into the role of second-class citizen where 'rights to service' belong to the citizen"—that is you and me and everyone else here who is not a police officer—"while the 'responsibilities to serve' belong to the police." It is not a very healthy way of looking at it.

How can this proposed Police Services Act address some of these issues? I do not know that it can. Alternatively—which is the recommendation of my study—can a task force of individuals whom police officers feel comfortable with be formed to look into the morale problem before greater damage is done?

It should be obvious that low morale will affect the quality of police service we have come to expect. Somebody needs to reassure me that politicians do care as much as I do about the morale situation. Law-abiding people of all races, creeds or colour will suffer if this is not treated as a priority. It bothers me to think that apathy or militancy may be the only way the message can get across, whether it comes from people critical of police activities or whether it comes from the police community itself. You cannot treat people with criticism all the time, and that is part of the media's fault, and I know that just from watching what has been going on lately, but there has to be some very definite effort to balance that out so that the police people can feel they are being appreciated by the politicians and that kind of thing. That is all I have to say.

1720

The Acting Chair: Thank you for your presentation. We have questions from Mr Philip and Mr Curling.

Mr Philip: I appreciate some of the things you have said about the problem of police morale, about the problem of self-image, about the need for the province and indeed the police forces to deal with that. I think there are some things that can be done on that, and I do not necessarily agree with what you are suggesting, but I think that there are some things that can be done.

Ms Boyden: There are a lot of police officers who agree with what I am saying.

Mr Philip: That is fine. They have a vote also.

Ms Boyden: I would hope so.

Mr Philip: And they have a democratic right to express that.

Ms Boyden: Actually, they cannot.

Mr Philip: Some of them are personal friends of mine and they agree with my point of view.

If you would not mind me asking you a few questions, you seem to equate the number of complaints with value for money and I wonder why you do that. Surely one complaint has a deterrent value if it finds a major problem that can be corrected, so that there are not further complaints in a particular area. Indeed, if you look at the role of ombudsmen throughout the world, a majority of them will say that their major job is not to deal with thousands of complaints, but to identify those patterns of complaints so that they can correct the problem so that there are less complaints.

Ms Boyden: I would like it to be called Ombudsman, actually. What I was trying to say is that, looking at the report, you say, "Well, it's very expensive, and is this what we are really getting?" There has got to be something else happening there. There has to be a perception of fairness all the way around.

I brought that out to show that particular part, but I also really wanted to focus on the 200 complaints that are just dropped, because I am hearing from police officers that they charge somebody and then there is a countercharge. They go to court and then the charge against the police officer is all of a sudden dropped. I have heard time and time again, "I wish there were a way that we could make them not drop the charge, because we want to push it." There is no mechanism for them to do that.

Mr Philip: You seem to be suggesting, though, that somehow the 200 withdrawn are related to what I would call public mischief.

Ms Boyden: I am not suggesting that at all. I asked the question, how many possibly were? Is there a mechanism in place for that where they can actually find that out, that the police themselves have a chance to vindicate themselves? That is not anywhere in what is happening right now.

Mr Philip: There are a variety of reasons why someone may withdraw a complaint. For example, with the human rights commission, if you look at why a number of the complaints are dropped there, it is because it takes so long to have a complaint processed. If it is going to take two years for you to get a complaint processed against your employer who has dis-

criminated against you or a landlord who has discriminated against you in some way, by that time you may be living in Vancouver or may have died or may be too tired of waiting to continue on with the complaint or may just say, "To hell with it, it's not worth all the anxiety of waiting for a hearing." I mean, there are a variety of reasons.

Ms Boyden: I agree. There are a variety of reasons, and they are outlined in the report, but what I am saying is—you are concerned about one complaint being worth X amount. I do not dispute that fact. What I am saying is, okay, if there is one countercomplaint, or if there is a complaint there that should have a public mischief charge laid against it, if there is just one, there should be a mechanism for the police officer to handle that.

It is not fair the way it is right now. They just lay them and it is leaving the police officers with the perception that it is just a smokescreen. It does not have that sense of fairness that really should be there, that people are aware that it is a very balanced and fair commission, that it is not going to be used for smokescreens, that it in fact has a purpose, to protect the police and to protect the public. Right now it does not have that perception with the police forces.

Mr Philip: You say, "On the surface a civilian review board seems like a good idea, except for certain psychological implications" and the message that it gives to the police community, somehow that they are not doing a good job.

Ms Boyden: Yes, it does.

Mr Philip: If we were to take that analogy, does that mean we should not have an Auditor General because that suggests to all public servants and crown corporations that they are going to mismanage because there is an audit function in the government?

Ms Boyden: That has nothing to do with what I am trying to say. The public complaints commission right now is fine. That is accepted by the associations. It is a way of handling the problem. Why are you taking it into the civilian arena when you already have something? Why do you have to do that?

Mr Philip: I am not sure that this legislation brings it any further than the Metro police complaints bill.

Ms Boyden: That is fine. What is in place right now, from my understanding of the association people, is acceptable. It is fine. But if you have to take it into being civilians running it, why do you have to do that? Does that mean we cannot trust our—

Mr Philip: Why would you object to a civilian running it?

Ms Boyden: Because it is saying to the police that they cannot do the investigations themselves, that you do not trust them.

Mr Philip: If I go to the human rights commission with a complaint, I do not have a civil servant investigating, I have a human rights commissioner, an outside, impartial body. If I go to the Ombudsman to complain about the most minor complaint against a public servant, I have an independent, outside investigator. Why should I not have an independent, outside investigator for the police, where the complaints may be a lot more serious than anything I may have against any other public servant?

Ms Boyden: At this point in time, the trust of the police for political people, to be fair, is not there.

Mr Philip: Where is the political person in this bill? The political person in this bill is that, sure, the minister will appoint the commission, but the people who are the staff people of that are independent.

Ms Boyden: They are independent as much as who they know and what their backgrounds are. They are not independent, because as a human being you cannot be independent. You know people. You are subject to influences of your peers.

What I tried to say was, right now, because of the way police officers are feeling about the whole political process and the way there has been no evidence of fair play in their minds—I will say in their minds—that is going to have to be addressed before you can bring in a total civilian review. They have to be sure that you are going to be fair, that there are not going to be black activists getting on that board. That is what the problem is right now. I did not say that it could not happen at some point down the way, but I am saying right now it would be, to my way of thinking, very bad for morale, which is already at a very low ebb, to bring something like that in.

Mr Philip: You say in your own brief that, "My research suggests, however, that a majority of police officers investigate their own more carefully, just to prove they are not biased."

Ms Boyden: That was one of the statements they either agreed with or disagreed with.

Mr Philip: Has not the American experience been that where they have internal police investigation units it has created more strife, more antagonism, more suspicion, more animosity in the police than by at least knowing that there is an outside body of some sort that is investigating and that if they are innocent, then damn it all, the outside body found them innocent, not somebody in their own department?

Ms Boyden: Okay, I would agree with what you are trying to say in that police do not want to be investigated by their own people because in fact they are tougher on them.

Mr Philip: So what is your point?

Ms Boyden: The point is, the police officers just do not trust the political process right now.

Mr Philip: So they do not trust the process that the minister is recommending and they do not trust the present system, which—

Mr Daigeler: On a point of order, Mr Chairman: I am not quite sure how you are proceeding in this particular committee, but traditionally it really has not been the practice to engage in an ongoing debate with the witness.

Mr Philip: I am not debating; I am clarifying.

1730

Mr Daigeler: I understand that, but I do think you are coming very close to debating this, and while we may all have particular concerns and questions, I think the purpose is to—

The Acting Chair: Mr Daigeler, that is not a point of order, and it is up to Mr Philip how he questions the witnesses. If, however, he starts badgering or anything of that nature, then the Chair will intervene. I have not detected any of that in Mr Philip's line of questioning.

Ms Boyden: I do not feel badgered.

The Acting Chair: Mr Philip, would you please continue?

Mr Daigeler: Other members have some questions too.

The Acting Chair: There will be time. We have time.

Mr Philip: Since this person is presenting herself as somebody who has done some psychological studies and "is an expert witness," I think I have a right to find out how expert that witness is if we are going to take the comments. Being an expert witness, she probably appreciates that I am not asking Mickey Mouse questions. If I did not take her brief seriously—you will notice that the briefs I do not take seriously I do not ask any questions to.

Ms Boyden: Actually, I am honoured that you are asking me the questions because it is—

Mr Philip: At least I am showing her some respect by asking her some questions.

Ms Boyden: I do not consider myself an expert, by the way. I am a student of learning. Maybe when I am 90 I will be an expert.

Mr Philip: Fine. I will pass and allow the other members. I am sure that Mr Daigeler wants to ask some questions now, so I will let him ask his questions.

The Acting Chair: Our next member asking questions is Mr Curling.

Mr Curling: Ms Boyden, I was rather interested when you were reading your brief, as a matter of fact the title of your brief, Concerned Citizens for Order, Peace and Security. I wondered for a moment, whose order, whose peace and whose security? Then as you went through it, I realized that you seemed to have great concern about the police. I presume your paper and your study were in that connection, those interviews you conducted with the police force.

But I noticed too, if I may say, there is a bit of a bias in some respect, because you resort to saying that somebody should educate the politicians or make them be aware of what is happening out there. But the politicians are legislators too, which is a much more scholarly word to use.

Why I say that is that it is a recognition that there are deficiencies in the society that have a place in which to make laws such that people are protected so that we have order, peace and security for all.

Ms Boyden: I agree. That is correct. I am a member of this organization.

Mr Curling: Good, and I am glad.

Ms Boyden: But this paper, this presentation, is primarily about my study.

Mr Curling: Yes. I listened very carefully to Mr Fromm talk about restraint and all that. I listened with great restraint without even asking him any questions, because it is a whole bunch of crap that he brought in here, and we were good legislators and a democratic society listens.

However, I basically feel that of course we have some excellent police officers here. We have some excellent police forces that try their best to bring order, peace and security for all. If you feel that we, as legislators, were not listening to a sector—

Ms Boyden: The police feel.

Mr Curling: If we, as legislators, were not listening, the question would be, if we were not listening to an interest group

that is constantly saying that the way the police are administering the law is biased and not fair, we have to look at that. The police are also saying that the laws that we have on the books are so old—

Ms Boyden: Can I just say—

Mr Curling: —I will give you all the chance to respond—that we are not capable of administering the law efficiently. Hence, we had studies and we had a task force that had its input; hence, Bill 107 came about.

Do you feel, after understanding that and putting my view there, that we have acted in a biased way of not listening to the police? I listen very carefully to my colleagues in the House. I do not think there is any irresponsible action that they have taken. They have looked on both sides of it.

I have heard many people talking about the black community, these irresponsible leaders. None of them decided to appoint himself. They address themselves to issues. The police are also addressing themselves to issues.

Ms Boyden: So am I.

Mr Curling: Why would you feel then that the politicians do not understand?

Ms Boyden: If you will read how I worded it, I am reporting the results from my research to back up the perception of the police officers. The exact wording is, "Police officers believe politicians appease pressure groups without considering the effect it has on policing." That was the statement in my research that they were to agree or disagree with, and it was a seven-point scale. Further to that, the research was broken down into an open-ended section B where they would give me comments back. I did the statistical analysis on my agree-disagree scale and then I took comments, the police officers' words—that is all in my study—as to how they feel. It came out very strongly, as you can tell; 90.8% of the respondents agreed with this statement, and out of that 57% roughly agreed strongly, which tells me, as somebody who has studied psychology to the degree I have, that there is no trust there.

Mr Curling: Let me deal with your statistics then. How many police officers did you interview? Before you answer that, where did you go? In other words, what location or region did you go to?

Ms Boyden: I am glad you are asking that. I will give you a copy of my research. I think I have it here.

Mr Curling: That is okay. I believe you if you tell me.

Ms Boyden: There were 284 police officers. I stayed away from Metro. I did it in the OPP, Hamilton and Aylmer. I did pick up some Metro police officers, obviously, in Aylmer. There were three or four in the OPP and in fact there were one or two in Hamilton, but I really tried to stay out of Metro because I knew there was a problem here and I did not really want to get that kind of real bias.

I went into the outlying areas and sat with these people. I work with groups. I have worked at Bellwood and Donwood doing group therapy and I am trained to pick up the underlying message that is there. I had to leave this research. I started it in January 1989. I gathered my data and I was so wound up doing it that I had to leave it over the summer, because I was finding it was just draining me too much. I was picking up the feelings and I thought: "This is not going to work. I have to balance it out, settle back down and then try and put some sense to it."

That is what I did. Even then it came out fairly strong for me. Does that answer your question?

Mr Curling: You have answered my question very well. You say that the problem lies in the Metro area.

Ms Boyden: But it is in the outlying areas too.

Mr Curling: But you went in the outlying areas and got some responses and have tried to apply them here.

Ms Boyden: It is worse here.

Mr Curling: What I am getting at is that you interviewed police officers outside the Metro area.

Ms Boyden: There were Metro police officers there.

Mr Curling: Yes, a few, you said.

Ms Boyden: Maybe 20 or 30.

Mr Curling: We addressed the entire province's concerns in Bill 107, but the psychological interviews that you conducted seem to have been based on certain incidents around here about mistrust for policemen in the black community and all that. I am sure that in certain areas you went to there was a very small black community, but again the response you got, you are saying you were able to apply in your paper to a community that has a very large black population.

Ms Boyden: I think what you have to realize is that you are dealing with group dynamics. I would like to just talk a bit about what happened in the research, because I think it might be a bit interesting. I was a bit timid to go into the classrooms and throw out the idea that the blue community, the police, is very similar to the black community, because what I was trying to do was to get them to think in terms of "I am similar" as opposed to different. When you focus on differences, you fight. I do not have to be a marriage counsellor. Common sense would tell me that people fight when they have differences.

I would go into the classes and I would say, very timidly at first, "Do you know something, I see you people here more like the black community than I am like either of you." They would sit back and they would give me this policemen's stare and wait for me to say something. I would say: "Look at it. You are both highly visible. You both have subcultural norms and ways of doing things. You both have a lot of peer pressure in operation. A form of that is that when one brother is hurt anywhere, it just goes all through the whole community." There are other things that I list in my paper. I was hoping to make them see how similar they were as a kind of building block to good race relations.

I also want to say that I took my paper out west. I have a letter from the Canadian Police Association vice-president, who is in Saskatoon. I gave my paper to him. They have problems out there, only it is with the native people. He read my paper and said, "My God, it is right here."

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Mr Curling: Just in summary, the policeman or policewoman can take his or her uniform off and the blacks do not.

Ms Boyden: That is not exactly true either. They do not feel they can.

Mr Daigeler: Mr Curling asked one of the two questions I had, namely, who were the police officers that you studied and in what policing environments? I think from what you are

saying, basically your study was a study on the Hamilton OPP officers.

Ms Boyden: And Aylmer.

Mr Daigeler: It does not necessarily reflect the province as such. As you will appreciate, of course, this bill will apply to the whole province. Frankly, in my experience, and I represent a riding in the Ottawa area, I may be wrong but I doubt whether the feelings are equally negative and filled with anxiety as the ones you are portraying. That is not to say I am arguing with your findings, but I am wondering whether they can be applied equally across the province. So that would be just a comment.

Ms Boyden: The reason I did it in Hamilton was to get inner-city policing, Hamilton downtown. I wanted to have the environment of what is called inner-city policing. The reason I did the OPP was to get what I call rural policing. I had officers in my group from the native reserves.

Mr Daigeler: But you are surely not concluding that such a restricted study, which is valid in itself, is for the whole rural police force in Ontario.

Ms Boyden: I would suggest that you take my paper and give it to any police officer anywhere you want, and the results will likely come back that he thinks it is an excellent paper.

Mr Daigeler: That is, of course, conjecture.

Ms Boyden: I have done it.

Mr Daigeler: You are coming from a research perspective and I do not think you can do that as a researcher. You can make a judgement call, and certainly as an individual citizen you are free to do that, but I do not think you should apply the weight of science, as it were, to this particular impression. I accept that the study you did applies to the police force you studied.

Ms Boyden: Can I read you one little thing?

Mr Daigeler: No. As I indicated earlier, I think the purpose of this session is not to debate, but to ask some questions for clarification that may be helpful in the development of this particular bill.

My question is, what was the precise thesis you were trying to research in your study? What was the objective of your study?

Ms Boyden: The prime one for me was to pull out the police officers' feelings, perceptions or attitudes, things that happen, about those 10 issues I mentioned. I wanted to have them do the questions which were lumped together so that they would see them and say, "Yes, there is this whole block of questions and it makes me think about this."

Mr Daigeler: Did you have a thesis? Were you trying to prove something or disprove something?

Ms Boyden: No. I was doing exploratory research to gather perceptions. In psychology, you do not have to do a hypothesis, where if it comes out right—I forgot all my statistics. It was not that type of thing. I was gathering feelings and perceptions with an idea to understand what is going on there. When you are studying abused women or something like that, you do not give them a form and it is how many people said yes or no. What you are trying to do is gather what is going on with the abused women as a group so that you can deal with, "What do we need to do with it?" That is the way I approached my study.

Also, there is a literature review that went with it. I was looking to see how much my responses applied to the American literature. In fact they are very close. There was really only one area that was a little different. That is all laid out in here.

Ms Oddie Munro: Certainly we appreciate your coming before the committee to share your knowledge and experience as a counsellor and researcher. It could very well be that the instrument you used to do your thesis might be of some use either in the training college or as an ongoing source of replication among police officers. Did you replicate? Did you do it in a setting other than a classroom setting?

Ms Boyden: No, it was all classroom. Afterwards we would sit and talk about it.

I doubt that it would be able to be replicated from the standpoint that the police officers do not trust researchers generally. My background is such that I was given two hours of class time to just sit and talk to the people. In fact in one of the classes, one of the officers said to me, "What kind of reception did you get from management about coming in and asking these questions about visible minorities, police investigating police and those kinds of things?" I said, "If it is any indication, do you know very many researchers who can come here and sit at this table for two hours and talk to you about things like that?"

As far as replicating it is concerned, I think you would have to find somebody the police trusted to give you the responses back that I got. That is why I said in my brief that I felt I did get the feeling out, that there was no polish there, because, number one, they probably did not think I was going to do anything with it. In fact I did not know that I was going to do anything with it. Number two, the study is actually in Mr Offer's office. I do not know if you have had a chance to read it.

Ms Oddie Munro: As a psychologist, and I am also a psychologist, I am sure that you did get good indicators of feelings in the study you did, but in order to benefit the police officers in the community it might be interesting to share your findings with either the training college itself or with the officers you interviewed.

Ms Boyden: I have done that.

Ms Oddie Munro: Do they still agree with what they said?

Ms Boyden: Yes.

Ms Oddie Munro: In your view, as a counsellor, what suggestions would you have for the kind of counselling—you just cannot leave people with these kinds of feelings—that could work out these kinds of feelings?

Ms Boyden: That is why I am here, and that is why I am suggesting a task force to allow the police officers basically to tell us civilians what we do to make their jobs very difficult. That, in a nutshell, I spell out in my research.

Ms Oddie Munro: So you have not counselled police officers. You have done a piece of research and you are giving it to us to consider.

Ms Boyden: I just graduated last year. In fact I would like to work in private practice, but there have been some personal tragedies and I just was not up to it.

Mr Philip: Would it not be fair to say that if I ask any group of people—take it away from the police officers—which they would prefer, something that is completely unknown or the status quo they know, they will usually choose the status quo

rather than the unknown because the unknown is always fearful?

Ms Boyden: In relationship to what?

Mr Philip: In relationship to this or any other matter.

Ms Boyden: If what is known is so bad that you have to change it, as in the case of an abused wife, you have to change it. It gets to a point where something has to be done because you cannot survive emotionally as a group, so something has to change. I feel that police officers are at that point, that something really has to change somewhere. I am hoping that by virtue of my coming here and talking about the morale problem that in fact it does become an issue for political leaders. I am just a small person. As I say, this is the first time I have ever done this, but something has to be done by people in power to build the trust.

Mr Philip: I guess maybe my analogy would be that often a deputy minister or a public servant is very much afraid of the auditor, and once the person realizes that the auditor is there to help him do his job more efficiently, then that fear seems to disappear.

Ms Boyden: That is right.

Mr Philip: I really wonder then if in your expressing fear against a police complaints procedure, if it would not be a normal reaction, that people are naturally fearful of something they do not know and therefore they are going to be opposed to it.

Ms Boyden: They are fearful for the reason, as I suggest, that they do not trust you, plain and simple. You have something now that, okay, they have worked with, have a little bit of control over it, are sort of looking at it. I will not make a comment, but with the recent happening—

Mr Philip: I guess what I am saying is, maybe one of the ways of developing the trust is that once they experience the new system they will find out that it is both in the public good and indeed in their good.

Ms Boyden: But you have to show in other areas that you can be trusted and the latest round of events that have happened in the newspapers—I read the newspapers and I have to form my opinions from what is in the newspapers. What might really be going on may in fact not be the case, but police officers perceive—if I asked that question right now, I bet it would be up around 100%; well, 99%, with at least 75% in the "strongly agree" category that they do not trust politicians. I talk to police officers daily.

Mr Philip: I think if you asked people in the black community, they would probably give you the same results.

Ms Boyden: I agree. There are so many things that are the same and one of the things I would like to suggest—why I picked doing a task force, it actually was not my idea.

Mr Philip: Well, I mean, they trust Alvin and me, but there are a lot of other politicians they do not trust.

Ms Boyden: I suggested the task force. It really was not my idea. It was my supervisors' idea and when they suggested it to me, I said, "Oh, they'll never go along with that." But the more I thought about it I thought, the task force on race relations, where the black community was able to come out and say what was bothering them, was very good and was necessary.

I would like to see the same kind of principles apply to the police community, if you think of it in terms of a group that is very similar to another group, where they have so many things the same. Instead of fighting, maybe they could work, or maybe you could work, to help people understand that they are so very similar. People fight when they are at loggerheads, when they are focusing on differences.

The feelings are the same. When I was working in the addiction field one of the things they said was, "You can boil all feelings down to mad, sad or glad." It is an oversimplification, but if you really think of that, it is about the truth. Police officers feel the same thing as the black people do. There is not enough of that happening right now. Everybody is ducking for cover and running.

Mr Philip: One thing that is covered, although under the regulations, and I think all members of the committee would agree, is that more needs to be spent and more needs to be looked at in assisting the police in terms of training and in terms of other forms of assistance that will make them feel more

comfortable, more self-actualized, if I can use the terminology that you might use, and so forth. It is not spelled out in the regulations, but I think that all members of whatever party would agree, and I think you made that point very well and I think it is certainly something that we will all keep in mind. Hopefully the minister will. He is nodding his head.

Ms Boyden: There is a way to train somebody, because right now what is happening is they feel everything comes down: "I'm being told to do this. I'm being told to do that." There is no ownership of what is happening. They are being told to do this, to do that, to learn this and to learn that. That also has to be changed.

Mr Philip: That is the type of training.

The Chair: Ms Boyden, on behalf of the committee, I would like to thank you for your presentation. You being the last presenter for the day, this committee stands adjourned until Monday 11 June.

The committee adjourned at 1754.

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J-19 1990

J-19 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Monday 11 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations and
Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le lundi 11 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Robert Chiarelli
Secrétaire : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 11 June 1990

The committee met at 1558 in room 151.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Chair: The standing committee on administration of justice is now in session. We are in the process of considering Bill 107, the Police Services Act, 1989, and the report of the Race Relations and Policing Task Force. Normally we would not proceed when the House is still in the process of doing regular proceedings; however, we have the consent of the three parties to go ahead.

Before we hear the first presentation, the Solicitor General has a brief statement to make concerning some amendments, I believe.

Hon Mr Offer: I would like to indicate to members of the committee—and I believe they are in receipt of amendments now—that we are tabling before the committee a series of amendments dealing with some aspects of the particular legislation before this committee. I believe it is important to table those amendments at the very earliest opportunity, and we are doing so at this point in time.

Many of the amendments are of a technical nature, but not all. I have no doubt that all members of the committee will be reading through those amendments, but I would like to indicate that there are some amendments of a substantive nature based on representations which we have heard in the past, and certainly some of those amendments deal with the right of the head of a municipal council to designate another person as part of the local police commission. Also, there is now the right of the boards themselves to choose their own chairperson.

We are also making changes to section 112, which is the special investigations unit, dealing specifically with the fact that the investigators in the unit are individuals who are not currently police officers and as well that those persons who may have been officers are not to be involved in the investigation of any matter that involves the force with which they were previously associated. These are some of the amendments.

We also have amendments dealing in a clear fashion with the right of appeal from the board to the commission under section 47 of the bill, which was an oversight that we felt must of course be introduced at the very earliest opportunity.

As well, we are tabling a further amendment which deals with the responsibilities of the boards, that the boards of course shall generally determine the objectives and priorities with respect to police services in the municipality, but after consultation with the chief of police.

There are other amendments contained within this body of amendments that we have tabled today, but I wanted to bring to the members' attention these amendments at the very earliest opportunity and also indicate some of the more substantive aspects of those amendments.

PHILIP STENNING

The Chair: I will ask Philip Stenning from the Centre of Criminology, University of Toronto, to please come forward. Dr Stenning, we usually allow 30 minutes per delegation, which includes time for committee members to ask questions. So if you can leave some time, we would appreciate it. Please proceed.

Dr Stenning: I thank you for doing me the honour of listening to my presentation today. I have circulated copies of the presentation. Because it is slightly longer than I think I can read in the time available to us, I am going to summarize parts of it and read others, but the full text is with you.

The focus of my presentation is on the provisions of Bill 108 which touch on the control and accountability of municipal police forces in Ontario; more specifically, those which deal with the roles of the Solicitor General, the Ontario Civilian Commission on Police Services, municipalities and municipal police services boards. My concerns can be summed up by saying that I think these provisions, as they are currently presented in the bill, are objectionable for five main reasons.

First of all, it seems to me they fly in the face of well-established and commonly accepted principles of responsible democratic government.

Second, they unnecessarily and undesirably disrupt the traditional balance between municipal and provincial control and accountability of policing in Ontario which has been developed and proven over the last 150 years.

Third, they seem to me inconsistent with the emphasis on community-based policing which is found in section 1 of the bill and which figured prominently in the government's rhetoric in introducing this bill.

Fourth, they ignore the clear and persuasive recommendations of at least five regional review commissions appointed by the provincial government during the 1970s and 1980s.

Fifth, they ignore relevant experience in other Canadian jurisdictions and the findings of research on that experience.

The next two pages of my brief deal with a brief historical introduction to my argument, the basic gist of which is that local responsibility for municipal policing has been the tradition, and an appropriate tradition, in this province, but that in the middle of the 20th century there was a recognition that there was a need for some provincial influence over municipal policing to ensure minimum standards were achieved. The effect in the last 30 years, I have argued, is that effective local responsibility for municipal policing has been seriously eroded. I conclude in that portion of my brief that the regrettable result during the last 30 years has been not only that local responsibility for municipal policing has been effectively eroded, to the point that ordinary citizens feel they have no significant voice concerning the policing of their communities, but also that the legitimate provincial role in municipal policing has not been effectively implemented.

The new Police Services Act should have provided the opportunity to correct these shortcomings, but what is proposed in Bill 107 will simply compound them. Under Bill 107, local responsibility for municipal policing will be further eroded

rather than enhanced. Municipal police services boards will continue to be dominated by provincial appointees rather than locally chosen representatives. A quorum for these boards is a simple majority of their members, thus allowing key decisions to be made even in the absence of any local representation.

Ultimate control over the police budget, over 80% of which is raised through local taxation, lies not with the local municipality nor even with the local police board, but with the Ontario Civilian Commission on Police Services, which will no longer have the independence that was enjoyed, notionally at least, by the Ontario Police Commission under the current act. I will talk about that a little more in a moment. Thus the local municipality has virtually no ability to responsibly balance its community's police needs with other important local needs.

As if this erosion of local responsibility is not enough, however, the bill now provides that the local board and its police chief can be completely subverted by provincial fiat. Specifically, if the board and/or the chief do not implement to the satisfaction of appointed provincial authorities standards decreed by those same provincial authorities, and with respect to which local authorities have no guaranteed input or influence, the entire local police governance and administration can be suspended or removed and replaced by a provincially appointed administrator. That is in section 23 of the bill.

An appeal from this decision lies to a judicial body, the Divisional Court, which has no relevant expertise to decide on its appropriateness. Judicial bodies should not be asked to rule on what are essentially political choices, the allocation of scarce resources between competing service needs.

Thus, municipalities and local police boards are given statutory legal and fiscal responsibility under the bill for decisions over which they may ultimately have no control or even significant influence. This offends against the most basic principles of responsible democratic government.

These arrangements whereby the provincial government has control over the governance of municipal policing have routinely been justified by provincial governments on the ground that giving such control wholly, or even predominantly, to municipal authorities will involve too much risk of improper political interference in policing. Even assuming, which I do not, that such an argument could be shown to have merit during the 19th century, when it first became fashionable, it cannot be supported in the late 20th century, especially now when provincial oversight powers to ensure that abuses do not occur at the local level are so great.

This same conclusion has been reached by no fewer than five regional government review commissions appointed by the provincial government during the last 14 years; and they are listed in my brief, the most recent one being the Niagara Region Review Commission in 1989. All of these commissions, after careful study, recommended that municipal police governing authorities should be composed of a majority of locally chosen representatives.

The view that municipal police forces cannot be responsibly governed by governing authorities composed entirely, or of a majority, of locally elected or appointed members ignores the fact that such forces always have been governed by such bodies in Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, the United Kingdom and the United States. Some of the Canadian police forces which are governed by such bodies today, such as those of Calgary, Edmonton and Halifax, have been widely recognized within the policing community as some of the best and most progressive police forces in the country. Furthermore, systematic research

on this question which I undertook in collaboration with the Canadian Police College in the early 1980s, and which included police forces from across the country, failed to find any evidence to support the proposition that forces governed by governing authorities composed entirely of locally chosen representatives were more subject to improper political pressures than those governed by boards consisting of a majority of provincial appointees.

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As recent research which I undertook for the Niagara Region Review Commission has demonstrated, the weakness of the case in favour of provincial domination of local municipal and regional police commissions is compounded by the fact that there are no criteria at all for the selection of provincial appointees to such commissions, no established procedures for selecting them and no routine monitoring of their performance once they are appointed, nor is there any legislatively fixed term of appointment for municipal police commissioners. Such circumstances, which would continue under Bill 107, not only provide no guarantee that provincial appointees are in any way qualified or suitable for the task, but also encourage the disposition of such appointments as a practice of political patronage. Furthermore, this absence of standards, criteria and democratic accountability stands in stark contrast to the provisions of Bill 107 concerning the selection, appointment and accountability of the members of the police forces which these commissioners are to govern.

By contrast, local representatives on such boards not only have to get elected by their local communities but must then be chosen for their positions on the local police board by a public vote of their municipal council and are accountable, and if necessary removable, through the same democratic process.

The effect of implementing these provisions of Bill 107 will be to continue the present situation in which citizens of municipalities have no adequate or effective voice in the governance of their police forces which so vitally affect their interests. In the light of Bill 107's ostensible commitment to locally accountable, community-based policing, this continued denial of effective local responsibility for policing standards, policy and resource allocation is particularly ironic and offensive. It amounts to a resounding and totally unjustified vote of no confidence in the democratic process at the municipal level.

Instead, municipal police forces in Ontario, as in most other jurisdictions in liberal democracies, should be governed by governing authorities composed of a majority of locally chosen and locally accountable representatives, with a minority of provincial appointees who are selected through an open, accountable process. These governing authorities should meet frequently—in other words, more often than is contemplated by section 35 of this bill—and publicly and should be required to actively encourage local citizen input into their deliberations and decision-making. In particular, subsection 35(4) of Bill 107 should be amended to clarify so that it will provide that boards may only close meetings when the criteria in that subsection are met.

In this way, local citizens will have an effective voice in the governance of their municipal police forces and will be encouraged to use it. At the same time, accountable provincial appointees will be there to ensure that legitimate provincial interests are taken into account in the governance of municipal police forces. There are many models for such municipal police governing authorities in other jurisdictions from which Ontario could draw.

Should such local police governing authorities fail to act responsibly, provincial oversight bodies such as the Solicitor General and the OCCPS, whose primary responsibility should be to support and assist responsible governance of municipal police forces by locally accountable police boards, will be available to take appropriate corrective action.

In order to have public credibility and confidence, municipal police boards must be visibly independent from the police forces they govern. The provisions of subsection 39(2) of Bill 107 requiring separate budgets for these boards are a welcome reform in this regard. But it is noteworthy that the other important recommendation made by the Lewis task force in this context—namely, that municipal police board offices should not be located, nor their meetings held, in police buildings—has not been incorporated in this bill.

Turning now to the provincial role, as I have noted earlier there are legitimate provincial interests in municipal policing, one of which is to ensure that local authorities receive appropriate advice, assistance and support to enable them to fulfil their responsibilities most effectively in the public interest. Another, of course, is to provide oversight to ensure that minimum standards of policing to which every citizen should feel entitled are met throughout the province.

To have credibility with both the public and the police community, however, the processes through which minimum standards are established and applied and through which compliance with them is assessed, and if necessary corrective action taken, must be demonstrably open, independent and fair. Such, unfortunately, will not necessarily be the case under the provisions of Bill 107. Municipalities, which must ultimately foot the bill for the implementation of minimum standards of policing, are given no guaranteed voice in their development or application. Nor are municipal police services boards, municipal police managers or rank-and-file officers who must implement them.

The body which is given the authority to determine whether such standards have been adequately met, the Ontario Civilian Commission on Police Services, has neither guaranteed independence nor expertise. No qualifications or criteria for membership on this commission are specified, nor is any term of office or tenure for its members. Under these circumstances, there is absolutely no guarantee that appointments to the commission will be made on the basis of merit, expertise and suitability rather than political patronage.

Despite the fact that the commission is authorized, and may be required, to undertake investigations to establish whether standards have been met, no provision is made in the bill for the commission to have any independent staff of its own. Instead, it must presumably rely on the staff of the Ministry of the Solicitor General who will have developed the very standards on which it is supposed to rule.

Since responsibility for municipal policing involves a partnership between municipal, provincial and police authorities, as well as the citizenry at large, the development of minimum standards for municipal policing should be entrusted to a body which genuinely and effectively reflects this partnership and which follows an open participatory process.

Similarly, judgements concerning compliance with standards, and corrective action in the event of non-compliance, should be made by a body whose composition reflects the various interests involved in the delivery of effective municipal policing services, yet which is demonstrably independent of any one of these interests. Appeal to a judicial body with no demonstrated expertise in such matters should not be contemplated, although normal judicial review of such an ad-

ministrative tribunal to ensure that it acts within its statutory mandate is not per se objectionable.

In conclusion, the revision of the Police Act provides an opportunity to substantially improve the arrangements for the democratic control and accountability of municipal policing in the province so that local communities are encouraged to take an active participatory interest in the governance of the police forces which serve them and in the context of credible and effective provincial oversight to ensure adherence to minimum standards throughout the province. As currently proposed, Bill 107 fails to meet this challenge.

Instead of introducing the needed enhancements of responsible, community-based, municipal police governance, Bill 107 simply reproduces, and in some cases aggravates, the very conditions of municipal police governance which have proved so unsatisfactory in recent years.

1620

As the Solicitor General acknowledged in introducing Bill 107, the Police Act has not been fully overhauled for over 40 years. As a result, and I quote him, "The role of Ontario's police has evolved to meet the challenges of today's policing environment, but their legal framework—the Police Act—has fallen behind."

When it comes to the governance of municipal police forces, a more enlightened approach than is envisaged in Bill 107 will be needed if the Police Act is to be brought into line with contemporary realities and expectations and to see us through the next 40 years.

Mr Kanter: First of all, I would like to thank Dr Stenning. I think we need more studies of policing in the academic world and more links between policing and educational institutions. Notwithstanding the fact that I do not agree with all of your conclusions, I think the exercise is an extremely important one.

I have a couple of questions. The first one relates to your view of what this bill does in terms of responsibility for policing at the municipal level, because there are sections that try to clarify the roles of all of the bodies. In fact, section 31 clarifies the role of the municipal police services boards and it seems to set out fairly broad responsibilities. In fact, another group came before us, the Ontario Association of Chiefs of Police, and said that this bill gives too much power to municipal police commissions and takes too much away from the chiefs.

Would you not agree that there is some movement in the bill to add—certainly clarifying, and I would suggest adding—to the powers and responsibilities of municipal police boards, something that was totally lacking in the previous bill?

Dr Stenning: Yes, I would agree with that. The bill does clarify, and I think that is a very laudable provision of the bill, but it is no good simply clarifying the role of a municipal police commission if the local municipality still has no control over it.

Mr Kanter: I think that really leads into my second question and I appreciate that you have done a fair amount of study in different regions. I see a reference about an 85-page work, which I might want to take a look at, on municipal police governance. I have had some experiences as a municipal councillor as well, and I am sympathetic to your argument, and yet it does not necessarily correspond to my experience in terms of the contribution that is sometimes made by municipal representatives and provincial appointees to a police board.

Let me just expand on that by saying that municipal appointees tend to be members of council. They are certainly elected; they are accountable in that sense. They also tend to be busy

people and sometimes they make it to police commission meetings and sometimes they do not. Provincial appointees are not elected people. Sometimes I think they make a very substantial contribution to a municipal police committee. Presumably, in some cases, they do not. I have not studied this overall, but have you looked at this? Is there any evidence that municipal appointees in fact attend more often, contribute more, really have more of an impact on policing than do provincial appointees, whom you have criticized quite severely in your paper?

Dr Stenning: I criticize provincial appointees not because of their attendance record or their performance or anything like that; I criticize them because I am of the opinion that local policing should be a local responsibility.

To get to the question of the commitment of local representatives to municipal police governance, as I have pointed out in my brief—and I have more details here if you want them—there are many jurisdictions in this country, including some of the best police forces in the country, in which police forces are entirely governed by municipal representatives.

From the research we did in the early 1980s, I do not think that any case can be made for the idea that somehow provincial appointees show a greater commitment to municipal police governance than locally elected representatives. It is very much a question of personalities and what they are involved with. If you have an appointed lawyer or businessman as chair of your police commission, you may never see him from one day to the next because he is busy in court or off doing his business. On the other hand, some appointed people I know have shown tremendous dedication to the job. I just do not think the evidence argues either way for which show more dedication.

The Chair: Mr Kanter, we would appreciate one brief question, and a very brief response, so we can get to the other members.

Mr Kanter: I think he really answered the question I was going to ask. It really appears to be a question of the personality or commitment of the individual rather than whether he is a municipal member or a provincial appointee. That is the last question I would have had.

Dr Stenning: And very much the person in the chair. That is very important.

Mr Philip: Following along on Mr Kanter's questioning, in your examples of locally elected or appointed members you give the example of the United States. Is it not the experience in the United States that, because of some of the locally appointed and elected control of police forces, you also have in some jurisdictions, much to the chagrin of the federal and state authorities, some difficulties with local corruption and control of the police force and other kinds of less desirable activities, so that there are both pros and cons for the model you are advocating?

Dr Stenning: Yes. The evidence, though, which is available—and there is not enough of it, I hasten to add—makes it impossible to argue that there is a link between corruption and locally elected governing authorities. Corruption can be found in either model and has been found in either model. Neither is proof against corruption.

Mr Philip: So you are saying that some of the stories we have heard of local kingpins in the underworld controlling smaller pawns more easily and therefore having an influence on policing are probably not a valid criticism?

Dr Stenning: I am not saying those are not true, but of course provincially appointed people are just as susceptible to that kind of corruption as locally elected politicians. I think the quote from the Waterloo Regional Review Commission, at the bottom of page 5 of my brief, really sums up my view on this. It says:

"The arguments for 'keeping politics out of the police' are largely fraudulent. No matter how the system is structured, the police governing body must ultimately be responsible to the public....The present system where the provincial government, elected through a party system, appoints the majority of local police commissioners is every bit as 'political' and more potentially dangerous than a situation in which a government composed of 24 separately elected individuals with at least three different political stripes and seven different factions appoints the police governing body."

So the fact that provincial appointments are controlled by one political party may actually make that a more dangerous situation than where you have a council reflecting a number of different political partisan interests electing members of a police governing authority.

Mr Philip: One of the ways you suggest of getting around that, or at least of minimizing some of the dangers in that, is that there should be standards or criteria in the selection, and you note that in Bill 107 there are no such criteria or standards. Can you suggest some or supply us with any research on the kind of criteria that should be built into the selection process?

Dr Stenning: I do not know of any research on that, but I can certainly suggest some. I think in the spirit of the bill, which is that policing is supposed to reflect the needs of the community and be subject to appropriate community influences, obviously it seems to me what one would want ideally to try to do in establishing municipal police commissions is make sure that they reflect community interests, minority interests, women, business interests, that they reflect the community as best one can. Obviously with a five-member commission there is a limit to the amount you can achieve, but there is nothing sacrosanct in five-member commissions. There are some jurisdictions in this country which have 10- or 12-member police governing bodies, and the police governing authorities in England consist of 40 or 50 people.

1630

Mr Philip: Section 133 is the regulations section. I am sure you would agree that some of the major decisions in this bill will be made by the Solicitor General and his advisers without debate, if you want. But the regulations are not here. Do you believe there are any of those items that are necessary to be set centrally as a way of ensuring that there is at least some consistency in policing from one jurisdiction to another? If so, what would they be? In other words, should the provincial government set the standards for education requirements, the type of training that should be done, the prescribing of uniforms? I assume that you believe there should be some consistency and some provincial standards set. What are the items under 133 or any other part of the bill that you feel should be the responsibility of the provincial government as distinct from the running of the police force by local authorities through a more decentralized system?

Dr Stenning: I could give you my own personal list, but I am not sure that would properly reflect my view on this, which is that there is a legitimate provincial role, as I have argued in my brief, to ensure minimum standards. What I have argued in

my brief is what standards should be developed should be determined through a process of consultation of all the interested constituencies—the police, the municipalities, the citizenry, particular interest groups which may be especially affected by policing. I think that is the way to decide the limits of the provincial role rather than some bureaucrat or some academic coming up with some list which says, “Yes, you should regulate firearms but you should not regulate buttons on uniforms.”

Mr Philip: I guess I have some sympathy for your argument, particularly in terms of the argument that municipal taxpayers pay 80 per cent of the cost of the policing. Where I get into problems—and I get into the same problems when I get into the regulation of trucking or whatever—is that the municipal boundaries and the economic boundaries or the people movement boundaries are not identical. I would want some assurance, or the business people in my area, my citizens, would want some assurance that their competitors and their friends in their economic zone, in Mississauga, are being treated the same way as they are and with the same kind of consistency. Simply saying that the local authorities in consultation with their public will make the decisions—

Dr Stenning: No, no, I am not saying that. I am saying that the Solicitor General should legitimately make those decisions, but he should do so on the advice and in consultation with a body which represents all those different interests—the police association, the chiefs of police, the police boards, the Association of Municipalities of Ontario, citizen groups. If the Solicitor General cannot persuade a group of that kind that a regulation is desirable and needed, then it seems to me there should be considerable question as to whether it really is desirable and needed.

The Chair: Thank you, Mr Philip. Mr Cooke has one very brief question.

Mr D. R. Cooke: It is a very brief supplementary to Mr Philip's. I felt the same way as he did with regard to the American experience, but perhaps the question could be put in the way of cronyism as opposed to corruption. I agree, I suppose corruption can occur at any level of government, but is there not a danger when you look at very small police forces, you look at small town councils, that there is often not a great cross-section of opinion on those councils and everybody knows everybody. Therefore, if somebody who is in the hierarchy of that town has a problem, a certain amount of what I would call cronyism may occur as opposed to out-and-out corruption, which might be overcome if you had a provincial appointee.

Dr Stenning: I am in entire agreement with you until your last phrase. I do not think there is any evidence that the provincial government is any less prone to cronyism than municipal governments.

Mr D. R. Cooke: They may be different cronies, though.

Dr Stenning: They maybe different cronies, exactly. The point here is that if that does occur, if you find that the role of the local board is being subverted through that kind of cronyism, you do have your provincial oversight bodies to step in and take the necessary steps. There is a check there against that kind of thing.

Mr D. R. Cooke: Provided they find out.

Dr Stenning: Provided they find out, yes. But that is the case no matter what police governing authority you have. I do

not want to start talking about Patti Starr or anything else, but cronyism can be just as hidden in provincial government—

Mr Runciman: Please do.

Dr Stenning: This is a view of municipal government which I think is just wholly outdated. There are ways now to ensure that corruption does not occur in municipal government, just as there are ways to ensure that it does not continue in provincial government. That may have been the case in the 1870s or something with the big political machines in Chicago, but that is not the case today. We have new ways to deal with those kinds of problems today.

The Chair: Thank you very much, Dr. Stenning. We did go over our time period a bit, but I want to thank you on behalf of the committee members for presenting a very thoughtful brief. I am sure it will be very useful to the committee when we enter upon our deliberations.

Before we ask our next presenter to come forward, I am going to ask the research officer, Ms Swift, to table a report that she prepared on behalf of the committee.

Ms Swift: Pursuant to the committee's request, I have prepared a memorandum comparing various civilian oversight mechanisms in Canada and in several foreign jurisdictions.

If you look at the very back of that memorandum there is a chart that I think is fairly helpful, comparing features of the various mechanisms that go to the question of the degree of civilian involvement in the oversight bodies and also the degree of independence from the police structures. That perhaps will help you with looking at the question of how other jurisdictions have handled this problem.

HUGH EVELYN

The Chair: Our next presenter is Hugh Evelyn. Please come forward. We usually provide about 30 minutes per presenter and that includes a question period. If you want to leave time at the end, we would appreciate it. Please proceed.

Mr Evelyn: I am short-winded.

I would like to deal with what I think is the heartbeat of policing in Ontario, and I am directing my remarks more particularly to Metropolitan Toronto, that is, policing vis-à-vis race relations. I am sure it cannot be argued that if the social structures fail, then a state of lawlessness and anarchy will ensue.

Where there is inadequacy to provide for the change of that institution and the police status, and/or when legislators or people who are in the position of making policies fail to bring about those changes, it goes without saying that the whole social structure will fail, because the police force is a very strong and integral part of social order in any country, and in Ontario and Metropolitan Toronto.

I have had the privilege and disillusionment of witnessing the steady deterioration of the relationship and trust between the Metropolitan Toronto Police Force and the minority population, and more particularly the community of black peoples in the Metropolitan Toronto area.

I am sure it can be argued that the tension and the deterioration and souring of relations, to some extent, are due to the rapid influx or inflow of new cultures and races into our metropolis and suburbs.

This obviously necessitates rapid changes of attitudes, practices and sensitivities by what I term a paramilitary institution like the police force, which continues to demonstrate that it has some fear that if it engages in any form of human relationship

and understanding, it might dilute the perception that it is here to enforce law and order. I find this attitude or this concept clearly in conflict with the motto of the Metro police force, "To Serve and Protect." As someone from the so-called minority population, I often wonder who they are here to serve and who they are here to protect.

1640

My presence here today should indicate, I hope, to the committee and should dispel the myth that is put out in the media and put out by members of the Metropolitan Toronto force's hierarchy, that the people who complain about the inadequacies of the Metropolitan Toronto Police Force's policies and practices, and the demand for changes, are limited to just a few people whom they label agitators. It is ironic that as soon as there is an incident or an occurrence, the force itself selects the leaders, so-called, whom they should call. I am sure that the chief of police, who has been around for a considerably long time, is able to find a reasonably good representative portion of the black community. They are the ones who ferret out the leaders and then they complain that it is a fringe.

I would like to assure the committee that the triggering incident which happened recently in Scarborough has brought about a closing of ranks and a strong commitment to bring about changes in policing in Ontario. It goes without saying that the time has come for us to bring some calmness and honest focus to this situation, and the challenge that we put out from the community—and when I say "we," I am not attempting to speak for the total community; we are a community of leaders, so there is no specific leader—the challenge we put out for the Metro police force and the police association, which is the catalyst between the rank and file and the hierarchy and the community, and also the Metro police commission, is to stop this what I call futile posturing and throwing of flames, and demonstrate a good desire, a genuine desire, to bring about policing into the 1990s and beyond.

I would just like to make a quick comment to indicate that I myself was very surprised that a bill like Bill 107, perhaps with its merits and shortcomings, was treated with such slowness through the Legislature from its first reading in December 1989. We are aware that it is not an economic bill, because our parliamentarians and legislators seem to be more concerned with the economy, but I can assure you, for the community with which I have a common bond, this Bill 107 is as important as the insurance bill. If there is a social disorder in the community for lack of a proper bill, we might not be able to drive our cars around Toronto. We would like some members of the Legislature to show the same zeal that they showed us when they were debating the insurance bill.

I say in my brief that I urge the Legislature—and I am sure there is no quarrel with it, as motherhood as it might seem—to adopt without change the six steps in the declaration of principles. At least it helps to set the tone for effective policing in such a diversified community.

I will deal more with specifics at this point in terms of civilian participation. I would like to suggest and recommend to the committee to think seriously in terms of chairmen or commissioners of boards. Why can we not elect them like we elect Ontario Hydro commissioners? We will not get every facet of the community involved. We still do not get every facet of the community when we elect members of the Legislature, but at least we believe we elect people who can speak for us. Maybe a thought should be given to have an election of commissioners. At least it would have some semblance of independence, and

after three years there would be a good opportunity to throw out these persons if the public feels it is not properly served.

I am happy that Bill 107 advocates a civilian complaint process, but I am concerned that there is not enough independence demonstrated in the provisions for setting up the special investigations unit and complaints bodies. I would suggest that we try to get an independent support staff with the expertise required. There is no magic in an investigator; he does not have to be a policeman. There are a lot of people with the knowledge and honesty and expertise who can investigate occurrences. Where the concentration of the expertise should be is in the support staff, the people who are finally advising or putting forward the reports, whether it is to the Solicitor General or the Attorney General. This method would ensure an openness and fairness in the investigation of complaints involving the police force.

Just on the question of discipline, as I mentioned before, I am dealing specifically at this point with policing and race relations. I think the act should have specific provisions for punishment for members of the police force, whether it is Metro or any police force, who are found to be guilty—and I am not speaking in the criminal sense—guilty of racism or practising measures of discrimination against a minority community. I will not attempt to suggest a type of punishment or penalty, but I think something should be put in the act so that the policemen would know that such attitudes and behaviour would not be tolerated.

1650

I notice in the press there is some mention about police reporting whenever they draw their guns. I thought this a very academic exercise. It was my belief that whenever any unusual circumstances occur—and I suppose the drawing of a gun is precipitated by unusual circumstances—a policeman is required to make detailed reports to his superiors. I do not think this requires legislation. I think the people who formulate policy should ensure that the policeman records in his notebook, document or paper unusual circumstances which caused him to draw a gun, because it is assumed that when a policeman draws his gun there is a reasonable chance that such a weapon will be discharged. I reiterate, I do not see this as a matter of legislation, but rather common sense policy.

I would just like to make some comments on the question of the probationary period. I am not quite sure what is the rationale behind the reduction of the probationary period from 18 to 12 months. We have enough problems having good policemen even after 10 or 15 years, especially in terms of race relations. I suggest that it should remain at 18 months and that after an assessment there should be provision in the bill for an extension of that probationary period.

Those are some of the specific recommendations and thoughts that I present to the committee for consideration; that is, the election of commissioners rather than their selection by the province. As a matter of fact, I think it would be a good thing if we preclude from these boards municipal politicians, who I believe just seek to be on these boards so they can enhance their salaries. The community has become exasperated with studies, task forces and reports and I think it would be apt to remind the committee as well as the legislators of all parties dealing with Bill 107 that life cannot wait until all the evidence is in, that important decisions sometimes must be made on the basis of incomplete information.

In terms of the Police Act, why on earth we had to wait 40 years for a new bill or a revision of the bill is beyond me. What

more evidence are our decision-makers waiting for? How many more lives must be lost? How many more bad practices by policemen must we endure as citizens of this community?

I know the prescription is easier to state than fill, but the Metropolitan Toronto Police Force and the civic politicians and the Metro police commission—I will not waste your time to give you my feelings about the commission; it has to be the most inadequate provincial body that we have in the entire province—we hope will show some honesty and leadership and come before this committee, so that when the time comes for passage of the bill we will have a good package that will help ease the tensions and social disruption that seems almost inevitable.

I have been brief, I hope. I have tried to focus on some of the things that I believe crucial in dealing with the issue of policing and race relations. I am sure the committee has had briefs with some fullness—at least I am aware of some, some that I endorse—that would help you in coming to a proper decision in terms of the bill. All I can say is that you play your part as politicians and we will play ours as the community.

Hon Mr Offer: On the point that you bring up dealing with the probationary period and your request that it be extended from 12 months to 18 months, we have heard that suggestion by a number of other people. I would like to note that today I tabled an amendment that would in fact extend the probationary period to a maximum of 18 months. It would be broken down into two parts: one year of probation and up to six months to complete actual training. So we have listened to those particular suggestions and have moved an amendment today to address that issue.

Mr Curling: I am aware of the extensive experience you have had. I know that you have served, as your brief stated, on the Council on Race Relations and Policing. I know also that you have chaired the Scarborough Multicultural and Race Relations Committee and the Scarborough Human Services organization. I know also that you have served the York county district court and the Supreme Court of Ontario, which gave you, as you said, an excellent opportunity. Also you served as a full-time member of the refugee board. This has given you a good opportunity and a good perspective to see how the police and the justice system work effectively.

I have two questions. You have been dealing with the human aspect of the interrelationship with the justice system. One of the things that the chief did, when he found that the atmosphere in the relationship of the black community and the police was not of the level that he would have wanted it to be and that it should be, was that when there were any incidents that happened he would call members of the black community and brief them about the situation before it hit the paper. The newspaper would have got it in some respects in its own perspective. Many times they felt it was not right or not the story that would have given all the details. Do you feel that by doing this it has more or less soured the relationship more, that it has done some awful things to the community with regard to selecting leadership? What damage do you think it has done to that community?

Mr Evelyn: I see it as a risk for the chief of police. I am sure he is well intentioned. I happen to have known Chief McCormack for some time, but perhaps he is a little misguided in this approach. The risk is that he selects the leadership and sometimes I wonder if it is not a deliberate ploy. He selects the leadership and in the next breath he says that this leadership is a fringe element. I find that hard to swallow. To me that is the

danger, to select. As I say, I am sure he is well intentioned, but there is a very grave risk in doing that.

Mr Curling: On my other question, I have put this question to a few people who have appeared before this committee. We emphasize a lot the training of the police officers and continuous training, and the minister told you of the extension of the training period. Do you believe that having seen many police officers in court, and some of the criminals too in court, as you were in the court system, that those who are selected to serve on our police force are properly selected? In other words, do you think there should be more psychological tests done to see that we have the appropriate people to administer this very diverse and very complex society? Do you feel that the police have done a sufficient job in making those selections for those constabularies?

1700

Mr Evelyn: At the selection process it is a little early to say whether the person is suitable or unsuitable, but I think the flaw is the ongoing process of education and sensitizing the policemen.

Mr Curling: Those are the ones who are in. I just wondered about those who are coming in, if the selection process is adequate. I just wanted your feeling on that. Sometimes when you bring someone in, he is too far gone to even give proper training to. I just wondered if a better selection process could be done. Do you think anything could be done there?

Mr Evelyn: I suppose there could be a more careful and a more sensitive selection of the people who come in. I think we have had suggestions of psychological testing. I am not sure if they use it. We are living in a sophisticated society and some of us keep blinkers on. We do not realize that the population is changing culturally and racially and that it is extremely vital that we—

Mr Philip: Some people have suggested that one of the differences between the police complaints commissioner under this bill and other ombudsmen is that in the case of, say, the chairman of the Ontario Human Rights Commission or the Ombudsman of Ontario, they can initiate systemic studies on their own initiative. That is not possible under this bill. Should there be a provision for the police complaints commissioner to look at patterns of problems, to turn out special reports on systemic problems rather than just respond to individual complaints?

Mr Evelyn: I agree with you. I think he should be provided with that. At present I think he or she is hamstrung. There is just no capacity for leadership.

Mr Philip: The Canadian Civil Liberties Association with Dr Hill and Mr Borovoy suggested that there should also be built into the legislation a provision for an independent audit function. Some people have suggested that if that were the case, we would be able to at least have an independent look at those instances where perhaps people who should have been charged were not charged. We can perhaps think of cases of long-term child abuse of some sort. We have had recent stories in the news in other jurisdictions and indeed in our own about the problems that have happened, and any one of a number of other complaints. Is that a reasonable sort of suggestion in your opinion?

Mr Evelyn: I am not sure if it is reasonable.

Mr Philip: Is it desirable?

Mr Evelyn: When it comes to laying charges, would that not be encroaching on the—

Mr Philip: I think what they were suggesting was that where a series of investigations were not done or were not handled properly, there should be some independent way of looking at it or of auditing the investigation. Is that reasonable?

Mr Evelyn: Of monitoring.

Mr Philip: Or of auditing and evaluating.

Mr Evelyn: Yes, I would agree with that.

Mr Philip: One of the areas that puzzles me in your brief, because I am not quite sure exactly what you are suggesting, is the one on discipline. You talk about: "Where allegations of racial bias are established, disciplinary action should be such that it acts as a deterrent to others of like mind, who should be made to understand that such attitude and behaviour will not be tolerated. There should be a special provision in the act for such situations."

I guess the thinking of a number of us around here is that the politicians have the responsibility for appointing a chief of police. If he is not doing his job properly, as with any other public servant, you should fire him, but you should not get in the way of a chief disciplining or taking personnel decisions as he sees fit. That is one argument that can be made. Are you suggesting that there should be specific penalties built into the act for specific offences or indiscretions or whatever you want to call them?

Mr Evelyn: Which the chief would carry out because it is in the act. We are not saying that he should prescribe or not prescribe the penalty; the penalties are in there. Especially for questions of racism or discrimination, there should be specific penalties where possibly it might hurt the pocketbook or something like that.

Mr Philip: So we should spell out in the act that if an officer is found to have done a certain thing, then he forfeits this amount of pay or he is fired or he is disciplined in some other way, and there should be a set of penalties. Is that what you are suggesting?

Mr Evelyn: I would think so.

Mr Philip: What does that do to the chief of police and his responsibility for carrying out discipline among his own staff as he sees appropriate?

Mr Evelyn: In the Criminal Code, penalties are set out. You get so many years or two years less a day. It has not tied the hands of judges.

Mr Philip: The Criminal Code still applies to a police officer. If he commits a criminal offence, he will still be charged and tried under criminal proceedings. I am just asking about a personnel problem.

Mr Evelyn: I am dealing with your point. If there is some guidance, if there is some penalty, the chief is there to carry out what is set out in the act.

The Chair: Thank you very much for sharing your ideas and suggestions with the committee. I am sure they will be useful to the committee in its deliberations. I want to thank you on behalf of the members of the committee.

OTTAWA BOARD OF COMMISSIONERS OF POLICE

The Chair: Our next presenter is from the Ottawa Board of Commissioners of Police, David Hill, QC, and Thomas J. Flanagan, chief of police. As you are probably aware, we allocate 30 minutes generally and we would ask you to please live within that time line.

Mr Hill: I thank you for this opportunity to appear before the standing committee on administration of justice. I am here as the chairman of the Ottawa Board of Commissioners of Police, and with me is Thomas J. Flanagan who is the chief of police for Ottawa.

We have provided the committee with a brief which is endorsed not only by our police commission but also by the Ottawa Police Force represented by Chief Flanagan. Because both our police commission and our police force approached the proposed legislation from the same viewpoint, we are able to make a joint presentation of our views on Bill 107.

The brief begins with the philosophical approach adopted in reviewing the proposed legislation, moves to introductory comments, then deals with each section of the proposed legislation on which we wish to express our views, and concludes with some closing remarks. The brief also consists of several schedules. Schedule B is a copy of a pamphlet we publish entitled *Complaints Against the Ottawa Police Force*, and schedule C is the 1989 annual report of the Ottawa Police Force internal affairs section dealing with public complaints. I commend the entire brief to you. I do not intend to read it.

Today I wish to talk briefly about what I think we are all trying to achieve and that is community-based policing. Community-based policing in our view encompasses the composition of a police force that should reflect the multicultural makeup of its community; employment equity, if you will. It encompasses the governance of a police force by local governing authority, which has a close connection to the local community, with assistance from the province. It encompasses a procedure for complaints against the police that satisfies the requirements of the local community within which the force operates. It is a philosophy that in most respects allows the local community to determine how it wishes to be policed. It forges a necessary partnership between the community and the community's police force.

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Bill 107, when looked at from this perspective, is necessary and essential for quality community-based policing in this province. The existing legislation is outdated and in some instances does not provide the necessary authority or appropriate direction for the further development of policing in Ontario to answer the needs of our local communities.

That is not to say, however, that Bill 107 is without flaws, and our brief is designed to suggest modifications that will strengthen the proposed legislation. It is intended to be constructive in nature and to engender further consideration and debate.

Coming from Ottawa-Carleton, I must say that the bill could perhaps better emphasize the bilingual nature of our country and our province, and that is an area of major concern for Ottawa that is not specifically addressed in the legislation.

I was pleased to hear the comments of the Solicitor General before this committee on 28 May when he alluded to a mutual partnership between the public and the police. I am concerned, however, that Bill 107 includes several tendencies away from

community-based policing and towards dictating the form of policing by a centralized Toronto-based bureaucracy. The initiatives in the bill to take existing responsibilities away from local commissions and to give them to a centralized authority, such as the complaints system, the power to remove a chief of police, the responsibility to elect its own chairman subject to the amendments that I had a brief look at that were tabled today—I see that changes that and I thank you for that, Mr Offer—the dictation of promotion procedures by regulation, and even the dictation for the location of police commission meetings are directly contrary to the system of community-based policing.

We are particularly concerned about the imposition of the Metropolitan Toronto complaints system to the rest of the province. The system may be excellent for Toronto, although it is clearly not a panacea. It has certainly not solved the policing problems encountered in Toronto. Toronto has had its complaints system for about five years and your committee is working particularly hard on this proposed legislation because a black youth was recently shot by a Toronto police officer.

Let me tell you that this complaints system is not excellent for Ottawa. Our commission some time ago established a multicultural advisory committee, before the Task Force on Policing and Race Relations, I might add. That committee has unanimously advised us that the complaints system in Bill 107 is totally unacceptable for Ottawa. Our commission agrees with those views.

Regional offices of a Toronto complaints commissioner are simply inadequate. We view the complaints process as necessarily involving the local community through the local police governing body with an appeal to the provincial level. Police officers appointed by and from the community and being part of the community should have their behaviour judged in the context of the community. Our position on this is diametrically opposed to that of Clare Lewis, who appeared before you on 28 May, and that is not news to Mr Lewis.

The Toronto complaints process has been levered into this bill and is an exceedingly complex one. In my view, complainants will need lawyers to advise them how to operate within such a complaint system. As a lawyer, I am not sure I should complain about that.

The present Ottawa complaint system, as indicated in schedule C in the brief that we have handed out, has found that over 77% of the complainants are satisfied with the process. That is a figure that Mr Lewis's system does not even report upon.

Bill 107 also is not as broad as the existing complaint system in Ottawa. It does not allow for as many multi-entry intake points for complaints as does the present Ottawa system. In other words, some complaints that are now being dealt with by the Ottawa complaint system could not be dealt with under the complaint system that this legislation would impose. The radical change to a complaint system imposed by this bill will, in our view, injure a long history of community-police co-operation in our area, and to impose this system in Ottawa-Carleton will be disastrous.

I have a concern that a so-called civilian complaint system is also embodied in a Police Services Act that deals with policing. I throw out a suggestion that it might be better as a separate piece of legislation. If it is separated, it might provide more time to determine the type of complaint system that should apply across the province and not just impose the Toronto system.

A word about employment equity: I think it is a great initiative in Bill 107. We have been very active in this area in Ot-

tawa. As I indicated, we have a multicultural advisory committee. We also have pioneered intercultural training programs that 500 of our 600 officers have now completed, and we have no difficulty in preparing, submitting and justifying an employment equity plan. My only word of caution is that I trust that the central review of such employment equity plans will take into account the local community feelings in drawing up those plans.

I have spent most of my time commenting on the complaint system. There are many other items contained in our brief which we believe will lead to a better and more community-responsive piece of legislation. I trust you will give our brief full consideration.

I and Chief Flanagan will be pleased to attempt to answer any questions for the committee, but perhaps before going to questions Chief Flanagan could say a few words.

Chief Flanagan: As Mr Hill has already stated, this is a joint effort. The board had consultations with the police force and we have come up with this joint brief to the committee, with which we both fully concur.

I do not think I have very much to say other than that we do not have the troubles in Ottawa that you seem to have in this area. I have been in the police force for over 39 years and it is the first time I have heard someone say out loud that the police are racist. I do not believe that the police are racist. I read that in the newspapers, mostly the Toronto newspapers.

The complaints procedure does seem to be working well in our area and I am particularly concerned that our multicultural advisory committee is concerned with the new proposed complaint procedure.

Again, Ottawa is very different because of the bilingual nature of our city and of our region. There seems to be very little addressed in this direction, but it is very, very important, let me tell you, to the people in our area. We have been, and are becoming even more so, community-policing oriented, and I would certainly not like to see anything change that. I do not think I can say anything more. Thank you.

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The Chair: Thank you, Chief Flanagan and Mr Hill.

Mr D. R. Cooke: First of all, I welcome you to the committee. Mr Hill is an old friend of mine going back 30-some years.

I was particularly impressed with your indication that 77% of complainants are happy with the process that takes place with the complaints procedure. There is argument in our region, Waterloo region, that the proposals may be a little too complicated, but I do not think we could ever come close to a 77% satisfaction rate in circumstances such as this. I thumbed through the end of your brief, and I see there is quite a bit of material on this, which I intend to read. Is there any magic to it, or what is it that gets your rate that high?

Mr Hill: I think you must be careful that the rating is on the process, not on the result.

Mr D. R. Cooke: I realize that.

Mr Hill: Satisfaction with the result drops to about 50-odd per cent. I think the magic is to fully explain the process and to have as open a process as you can and as simple and easy-to-use a process as you can. That is where I am very concerned about the Metropolitan Toronto system. Other than that, maybe we are just good people in Ottawa.

Mr Polsinelli: I like to think we are good people in Toronto too.

Mr Hill: It would be nice to think that.

Mr D. R. Cooke: I may have more questions after I read all the material, but I think we may have stumbled upon something rather exciting here.

The Chair: Mr Polsinelli, you can give the Toronto viewpoint.

Mr Polsinelli: I do think we have good people in Toronto, Mr Hill. I would like to question you about your concerns about the public complaint system. I have had the opportunity to review, at an earlier time, your system in Ottawa and compare that with the system we are proposing for all of Ontario. Quite frankly, it seems to me that what you have is a system where you have—and I am just sort of refreshing myself with the terminology. In your schedule C, what you have is an internal affairs bureau which conducts the investigation which will at some point determine whether the complaint is justified or not, and the chief of police or the bureau itself would administer the punishment or the reprimand or whatever. If the complainant is not satisfied, he has a right to appeal to the commission. Essentially what you have is an internal investigation system.

What we are recommending for the rest of Ontario is essentially that. Each department would be required to establish a bureau—a bureau of internal affairs, if you want to call it that. The chief of police would at some point decide whether or not the complaint was justified and administer a reprimand or a punishment. But alongside that, what you would have is a civilian overview, and that is what we are suggesting we do for all of Ontario, that we have a civilian overview of the internal investigation system. What is your objection to that?

Mr Hill: I do not have an objection to that because I think that is the system in Ottawa. It is a civilian overview by the members of the Ottawa Board of Commissioners of Police, all of whom are civilians. And that may be where the system digresses, because in Toronto that responsibility has been taken away from the police commission and given to a second set of civilian reviewers. Although there may not be something inherently wrong in that, when you get down to the details of the system as it is embodied in this legislation, it comes across as very complex and very difficult to use from a user point of view. I think that was the objection from the advisory committee that I referred to. It is not so much that there is not a civilian authority at some point taking a look at the situation; it is the complexity of reaching this type of civilian authority.

Mr Polsinelli: I do not understand what you mean when you say difficult from a user point of view, because it seems to me that from a user point of view what I would want to ensure is, first of all, that there is an impartial investigation and, second, that there is an ease of the complaints process, of making a complaint.

Our complaint system in Bill 107 basically says you can walk into almost any police station in Ontario and make a complaint about any other police station or any other officer, or you can go directly to the commissioner. Once you have launched a complaint, which is a very simple process, the system takes over in investigating the complaint. How can that be difficult? How can that be complex?

Mr Hill: I would have two comments on that. The first comment is that your proposed system does not allow an investigation unless somebody does come in and make a complaint.

That is what I said in my comments about not enough intake. Complaints are investigated in the Ottawa system if we read something in the media that is of concern, if an alderman or the police commission gets a letter, if somebody comes in to the police station, or if somebody calls and has a police officer go out to him. So the point of intake is restricted. Perhaps more than that, in terms of complexity, it is not just making the complaint; most complainants, in my experience, are interested in following the complaint system and seeing what happens to their complaint, and that is very complex in the Bill 107 provisions.

Mr Polsinelli: I wish we had a bit more time to talk about this because I think we are talking about systems which are not incompatible. In terms of the intake system, in Bill 107 the complaint system requires that someone file a complaint. It does not necessarily have to be an individual who was involved in the complaint, but anyone can file a complaint. In your system, someone has to initiate the investigation.

Mr Hill: No.

Mr Polsinelli: Surely, no one is going to undertake an investigation unless someone says, "Investigate this." If there is an article in the paper, one of the officers is going to have to say, "This is worthy of investigation." Our system says that someone has to file a complaint; it could be anyone. I would like to get into the merits of it, but I have seen some mean stares from the chairman.

The Chair: Thank you, Mr Polsinelli. I am sure that you can conduct some of your discussions through correspondence or privately. We do have other members of the committee who want to ask some questions of the two presenters here today.

Mrs Marland: Thank you for including Sir Robert Peel's Principles of Policing, 1829. I have never read those before and they are really very current today.

Last week we had a presentation before the committee from the—I will not have the proper title—television broadcasting people. We heard that in the Premier's backyard in London that, depending on who people were, they received different treatment from the police. The question they were dealing with was the release of names of people in London who had been charged; not people who were being investigated but people who were actually charged with criminal offences. Their point was that if a person is charged, it should not matter who he is, the access to that information should be public.

Since you are responsible for policing in probably the single city in Canada that has the largest number of famous, well-known people, I am wondering whether the Ottawa Police Force is bound to the same kind of treatment of people depending on who they are and what position they hold in society or politics or any other position. Do well-known people in Ottawa receive different treatment than others when they have been charged with criminal offences?

Mr Hill: I hope not. If they do, then we are doing something wrong. The Ottawa force has a policy of releasing the names of everybody charged.

Mrs Marland: To the media?

Mr Hill: To the media, yes.

Chief Flanagan: We do not treat anyone differently, but I think the media may, because the media are more interested in publishing names of people such as you have described than they are of someone else. It is not the police, it is the media.

Mrs Marland: That is interesting, because what they were saying happens in London does happen in other jurisdictions. I was trying to find out what other jurisdictions had different laws for different people, depending on who they were, because it is rather sickening to think that happens.

I have just a brief question, because my colleague also wants to speak. How does the Ottawa Police Force feel about a central recruiting unit operated under the Ministry of the Solicitor General?

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Mr Hill: I do not think we have any specific opposition to it as long as it does not force recruits on us. We have a very active recruiting program. Unfortunately, we are a mature force and do not have a large intake on an annual basis. We take in maybe 15 officers. We have been looking for almost any help, assistance or methodology in terms of recruiting the type of people we want to recruit. If a central recruiting system will give us some support in that way, then that is wonderful.

Mr Runciman: I would like to address my questions to the chief with respect to some of the comments he made. I am curious about the Ottawa force with respect to morale. We have heard some concerns expressed to this committee and in the media as well about police morale—perhaps this pertains more to Metropolitan Toronto than to other areas of the province. I am not sure—about some of the things being said about police officers in the media primarily in Toronto, some of the constraints that have been placed upon police officers in their actions and ability to do the job, perhaps not being supplied with the necessary tools to do the job as effectively as they would like to be able to do it, some of the suggestions being talked about with respect to filing comprehensive reports when an officer feels it is necessary to draw a weapon and those kinds of things. I would just like to hear a general reaction from you about that in your force.

Chief Flanagan: I read with dismay, mostly in the Toronto newspapers, about this stuff. Again, what dismays me most is the fact that the police are being accused almost constantly of being racist. In my opinion, this is just not so.

I repeat, I have been a police officer for many years, almost 40, mostly involved in the field of criminal investigation, which means that I have had a lot of dealings with other police forces—Metropolitan Toronto, Montreal and others—and I just have found this not to be true.

One thing that comes to mind, and I know this has been discussed lately among police officers, is that I would hope that the label “racist” would not cause police officers who are not—and I am sure we have some racists among us—but I would certainly hope that the old adage “Get the name, play the game” would not apply. I see police officers, particularly young police officers, wondering why they are being labelled as racist when in fact they are not and are very much the opposite, much less so than people in other areas of the community. I just hope that some police officers who are not racist would not become racist because they are being told they are.

Mr Runciman: I have just one quick question. The suggestion of bringing people in off the street into sergeant's or captain's positions or what have you and perhaps improving the makeup with respect to reflecting the community, and for other reasons—how do you think that sort of initiative would impact on the morale of your officers?

Chief Flanagan: I guess you are talking about lateral entry.

Mr Runciman: Yes.

Chief Flanagan: I think lateral entry is something that is going to evolve to a certain extent in the years to come, but I do not think you can bring people in, if you mean it literally, off the street to be sergeants and captains and this sort of thing. No, I do not think so.

I think you are going to have to start with certain technical positions, and we are already doing that. For instance, the RCMP has a deputy commissioner who comes from the public service. This is an unusual thing, but to say that we can just bring people in holus-bolus from the streets to assume non-commissioned and commissioned ranks in the police, we are certainly not ready for that and I do not think we will be for a long time if you do not want to affect morale and if you want to have a competent police force.

Mr Philip: Thank you, Mr Hill and Chief Flanagan. You made some interesting points in your brief that you have not elaborated on because of time. But I would like to deal with page 13 on which you say, “The complaint system is so important and so sensitive that we are of the belief that it deserves its own separate act.”

When the Metropolitan Toronto Police Force Complaints Act was introduced by Mr McMurtry—maybe your memory will verify what I recall—Mr McMurtry was both Attorney General and Solicitor General at the same time. My question to you is this: It always struck me as reasonable that there should be a division between what I would call the administrative aspects of government and the Ombudsman aspects of government. Would it make more sense to have the police complaints procedure under the Attorney General rather than under the Solicitor General, and does the Solicitor General have a conflict of interest in the sense of having that under him rather than under what should be perhaps a more impartial body?

Mr Hill: I do not think I would go so far as to be concerned about the ministry responsible for the act. I think the Solicitor General is far enough removed from the day-to-day operations of any police force that he and his officials will look at a situation with enough independence that it does not bother me. It also would not bother me if the Attorney General did it either. But I do agree that it might be a wise thing to do to separate out the complaints procedure into a specific piece of legislation. I also agree that it might be good to have some variation in that procedure for some parts of the province that are not necessarily attuned to the Toronto system.

Mr Philip: You mention on page 14 that you would point out that your “multicultural advisory committee has reviewed Bill 107 and has advised us of their unanimous strong opposition to the proposed complaint procedure imposed by the bill.” You do not elaborate on the reasons for their opposition, and I wonder if you could tell us what their opposition is.

Mr Hill: This committee is chaired by a member of our commission and he reports to the commission, so I go on his report. I was not at the meeting of the multicultural advisory committee that dealt with it, but it is my understanding that it is a combination of things: that they are relatively content with the complaints system as it is now operating in Ottawa; that they have a concern that it is a provincial, centralized bureaucracy that is going to be dictating the complaints system, and that it is perhaps somewhat removed from the local community in Ot-

tawa; and I think they are very concerned about the complexities of the system. Those are the comments that were related to our commission by the commissioner reporting. That is really as far as I can assist you.

The Chair: Mr Philip, do you have one final brief question?

Mr Philip: One final brief one, then: I am sure you would agree that the major decisions under this bill really are not in the bill at all; they are under section 133, which is the regulations section. Are there any provisions under 133 that you feel should be open to public input, public hearing, by people like yourself, by people such as the representatives of the police force who are going to make a presentation after you, by members of the visible minority community and others interested, before these regulations are in fact enacted?

Mr Hill: Yes. Maybe not all of the things covered by section 133, but certainly some of them. One I can pick out right away is promotion procedures. I think the local community, through the local governing board and through public input, should have some understanding of what the promotion procedures are and maybe have some influence in establishing them. That is provided for in paragraph 133(1)9. There may be others. I have not specifically gone through all of them, but I guess the answer generally is yes.

Hon Mr Offer: Just as a point of clarification, when one deals with the public complaints system within the Police Services Act under section 73, that whole particular system remains in and is administered by the Ministry of the Attorney General and not by my ministry.

Mr Philip: Yes, that was understood.

The Chair: On behalf of the members of the committee, Mr Hill and Chief Flanagan, I want to thank you for your very comprehensive brief and I appreciate the opportunity to ask you questions.

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POLICE ASSOCIATION OF ONTARIO

The Chair: Our next group of presenters is from the Police Association of Ontario: Neal Jessop, the president; E. R. "Ted" Johnson, the executive committee member; Gord Noels, chairman of the board of directors; and Ian Roland, legal counsel.

I understand that this group had made a special request to have some additional time. I just want to poll the members to make sure that we are going to have a quorum here at 6:30 if we are going to take the full hour that you had requested. I do know that some members have other commitments. As you know, we started late. I just want to try to get a handle on the amount of time we will have for questions. Can the members of the committee indicate how many will be able to stay beyond 6:20, 6:30? Only one.

Could I ask for some sense from the delegation as to whether that would suit your purposes?

Staff Sergeant Jessop: This brief is relatively lengthy and we would anticipate probably being at least three quarters of an hour.

Mrs Marland: May I make a suggestion? Obviously the time is a very crucial factor right now. We have your brief. If you could highlight it we can read the rest of it, but I think you

are one of the most important deputations for this committee to be able to ask questions of.

Staff Sergeant Jessop: Thank you, and we will do so.

The Chair: I think what Mrs Marland is suggesting is that you make your main points without going through the details of your brief so that you can allow as much time as possible for questions. Please proceed.

Staff Sergeant Jessop: Seated to my left is Ted Johnson, who is chairman of the PAO Police Act Revision Committee. He is also the administrator of the Niagara Regional Police Association. On my far right is Gordon Noels, who is the chairman of the Police Association of Ontario. He is the administrator of the London Police Association. On my immediate right is Ian Roland, who is counsel to the Police Association of Ontario. I am Staff Sergeant Neal Jessop. I am president of the Police Association of Ontario, and I am a Windsor police officer.

I apologize to you for our recent comings and goings from the room. There is one particular amendment that was introduced today that is causing us considerable consternation. Mr Roland will speak to it.

The Police Association of Ontario is the parent body for all police associations in Ontario, including the Metropolitan Toronto Police Association, which is represented here today by Mr Lymer, and the Ontario Provincial Police Association, which has three representatives here from its board of directors.

All the approximately 17,000 police officers in the province, apart from the senior officers in large forces, are represented, through their local associations, by the Police Association of Ontario. The PAO also represents all the approximately 4,000 civilian support staff members of police forces outside of the Ontario Provincial Police force and those civilian members who have been designated as senior officers in accordance with the Police Act.

The Police Association of Ontario was founded in 1933. Since that time, the association has been actively involved with various ministries of the Ontario government in attempting to provide the best possible level of police service to the citizens of this province.

We very much appreciate the opportunity to participate in many government initiatives that impact on the welfare of policing and police officers. We are convinced that with a spirit of mutual co-operation with the public, most of the problems encountered in the policing profession can be significantly resolved to the satisfaction of everyone. In the late 1970s the Police Association of Ontario urged the government of the day to revise the Police Act. Many of its provisions were antiquated and rigid and did not meet the needs of police officers or the communities they served. Almost 10 years passed, until mid-1988, when the government contacted the members of the police community and meetings began in earnest with the government concerning a new act to govern police matters in Ontario.

The committee was chaired by Stien Lal, Deputy Solicitor General for Ontario, and included members of the Municipal Police Authorities, the Police Association of Ontario—and you have seated before you the three members of that committee, Mr Noels, myself and Mr Johnson—and the Ontario Association of Chiefs of Police.

It is interesting to note that the vigorous debate of this committee led to a consensus in many areas, which is reflected in this bill. I will attempt to describe those areas. It should also be noted that during our discussions the Race Relations and Polic-

ing Task Force was established. When that report was tabled in April 1989 a significant number of that group's recommendations had already been discussed and agreed to by the Police Act Revision Committee as established by the Ministry of the Solicitor General.

I must take this opportunity to advise you that since the inception of that committee the Police Association of Ontario has stated that in areas where consensus was not reached or where any of the parties later departed from that consensus we would make strong representation to this committee on behalf of our members.

During these hearings, the majority of which I have attended—I have seen you and I suspect that you have seen me hanging around—much has been said about the best interests of the rank and file of Ontario police officers, who should represent them and whether or not police association representatives could speak for the officer on the street.

Since 1985 I have been the president of the Police Association of Ontario. I joined the Windsor Police Force on 2 September 1969. I served in the patrol division for nine years, the drug squad for one year and as a detective investigating major crimes for 10 years. I currently hold the rank of staff sergeant in the uniform division and I will return to the criminal investigation division in October 1990. The city of Windsor ranks sixth in serious crime in Canada. While I was performing those duties, I served as president of the Windsor Police Association from 1979 until 1985.

I currently have the responsibility of supervising the police activities of three sergeants and 32 police constables who, despite current difficulties, continue to enforce the law and serve their community in the finest tradition of the Windsor police service. I can assure you that I am very familiar with the problems police officers face in their daily work and that the Police Association of Ontario is an entirely democratic organization that represents and reflects the views of the vast majority of police officers in this province.

Following my brief remarks our counsel, Ian Roland, will address you with respect to the specific provisions of Bill 107, those provisions that require amendment in our view. My remarks will give you an overview of the position of the Police Association of Ontario on the major matters in the bill that have attracted public attention. Our specific submissions, as presented by Mr Roland, are no less important. For our members, the submissions in the detailed review of Bill 107 involve critical matters that must be addressed.

Declaration of principles: The Police Association of Ontario supports the declaration of principles as described in section 1. It has long been our view that in order to effectively police our communities the face of the police service should mirror that of our respective communities. However, in accordance with the Charter of Rights and Freedoms and the Human Rights Code, no police officer should be relegated to the status of a second-class citizen because of his or her occupation as a police officer. Recent developments in Metropolitan Toronto would indicate that certain members of the public have a distinct desire to arbitrarily relegate us to that second-class position.

In relation to the Ontario Civilian Commission on Police Services, it has long been the position of the Police Association of Ontario that minimum standards of police service should be established by the province for all police forces and that these standards should be enforced by COPS. We have repeatedly encountered dangerous problems in the areas of equipment, communications, staffing and other matters, particularly in the small police forces which are controlled by committees of local

council. It can also be said that such problems rarely exist in the major municipalities and regions which are controlled by a police board.

In relation to those boards, the Police Act Revision Committee of the Solicitor General reached a consensus in agreeing that all police services in Ontario should be governed by a police board, the majority of the members of which should be appointed by the province. This premise, in the view of the Police Association of Ontario, is absolutely essential to the standardization of police service and the good government of police forces.

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You have heard numerous submissions by regional councils that tell you that Ontario police services are among the best provided in the world, and moments later those same individuals complain about the cost of policing. These people go on to indicate that policing should be secondary to parallel programs in their communities. When we examine this conflict, we need only look south of our border to see the devastation in police forces which are controlled by municipal councils. Police forces left to the whims of municipal councils, particularly in election years in those jurisdictions, are subject to reductions in standards and equipment, wild fluctuations in staffing, disproportionate levels of service for the wealthy and the poor and generally inadequate service in all areas of police responsibility.

We have also heard the argument in those proceedings that local taxpayers should have total control of police spending through their elected representatives and thus those representatives should form the majority of the police board. I can tell you that in nearly six years as president of the Police Association of Ontario I have learned of only a handful of budgetary appeals by local councils to the presently constituted Ontario Police Commission. These appeals, in our view, would constitute much less than 1% of the total number of budgets resolved through consultation between presently constituted boards and local municipal councils.

Finally, it is our view that in the future, because of the increasing demand by the public for better and more comprehensive police service, more resources will be required for policing in comparison to other services. The extent of the provision of these resources must, in part, be controlled by qualified persons independent of the local elective process, who can protect the necessary independence of the police from the unwarranted political interference of local councils.

In relation to employment equity, the Police Association of Ontario supports the general concept of employment equity. Not unexpectedly, our members have legitimate concerns for the effect which such plans will have upon them in their employment, especially with respect to promotional opportunities. We recognize the tension between generally accepted standards for recruitment on one hand and the need to make the composition of a police force representative of the community it serves on the other.

We appreciate the rationale for positive measures to promote members of specific groups, but we also understand the disquiet this creates for other members who may feel that they will be victims of preferential discrimination. We believe that with goodwill and substantive involvement of all interested parties in the preparation of employment equity plans, the legitimate objectives of the legislation may be achieved without serious or sustained opposition. We expect that when boards prepare employment equity plans they will actively involve our

members to ensure that the plans meet our members' legitimate interests and concerns.

In relation to public complaints, some of you may remember that on 28 August 1989 we appeared before this committee concerning Bill 4, An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984. In our submission on that date, we suggested a procedure for resolving public complaints, which has largely been adopted by Bill 107. Obviously we recognize in this submission that the public must have access to a dependable system independent of the police which resolves complaints against the police. We believe that this system, as far as the public is concerned, is a practical and efficient method of resolving complaints. However, we find the system proposed in Bill 107 has some serious inadequacies in relation to protecting the rights of police officers through the trial process. Mr Roland will describe those problems and provide what, in our view, are necessary remedies through amendment.

Special investigations: The Police Association of Ontario does not oppose a specially constituted special investigations unit to investigate serious incidents of injury or death that may have resulted from criminal offences committed by police officers. We emphasize that they "may be" offences as well as "may be" committed by police officers. If we were much less responsible to the public, we would agree with those who would have these types of investigations conducted by someone other than highly competent and trained police officers who have a great depth of experience in the investigation of serious criminal offences. Surely anyone who has a minimum of experience with the criminal courts of this country knows that even a minor charter violation of a person's rights may result in the acquittal of a charged person.

If the acquittal of a police officer was our principal concern, we would readily support and welcome a criminal investigation by unqualified, untrained and inexperienced investigators. In our society, only police officers conduct criminal investigations. No other persons or professionals have the necessary training and experience to do so. Effective investigations are the art and science of a police professional, and these investigations should be left in the hands of those who know how to perform the function.

I must say, having read the act and the amendment, that I do not want you to confuse the fact that we have no problem with former police officers being involved with the investigative process, but I might warn you that if that is chosen by the government, those former police officers you choose should be of the highest quality, and in our view the choice should centre around qualified, experienced homicide investigators. We agree that if they were involved with a force previously and the alleged infraction occurs in that force, they should not take part in the investigation.

Much has been said about the director's position. As far as the director's position is concerned, we suggested in committee that we have no objection to a highly qualified, astute and respected individual being appointed or charged with the responsibility to oversee the fairness of these investigations.

Presently the Attorney General is left with the responsibility of receiving and reviewing the results of the investigations. Perhaps the Attorney General may also be charged with the responsibility to oversee the fairness of the investigation, and that is not unlike, in a normal investigation, consulting with a crown attorney to see that all the bases are covered, that nothing is left, that it has been fair and that no one has been left out.

We must also advise you that we view subsections 112(4) and 112(7) as having some serious Charter of Rights implica-

tions. These subsections should be amended or removed. Subsection 112(7) directs police officers to co-operate. There could be a serious charter problem with that type of direction in an act in the event a charge may be imminent.

In relation to labour relations, police officers in Ontario do not have the right to strike over contract disputes. Until the introduction of Bill 107 and in particular subsection 121(5), these disputes were settled by independent and unfettered arbitration. This system has served the public and the police officers of Ontario admirably for decades. However, the police governing authorities and the Association of Municipalities of Ontario have continuously lobbied the government to place restrictions on arbitrators.

Interestingly, when the regions made their presentations, which centred only on the price of policing, no mention was made of this concession by government to these groups. This provision of the bill will have a serious negative financial impact on our members. Further, if no financial incentive is offered to future members of our profession, as it becomes increasingly complex and personally unrewarding the quality of our members is going to deteriorate.

We urge you, as a committee, to reject any restriction on arbitrators in determining contractual disputes.

In addition, the Police Association of Ontario is of the view that each association should have the legislative right to bargain for retired members. We have repeatedly requested limited consideration in this area and we have been given no consideration. We would ask that you consider this matter and include an appropriate amendment.

Much has been said about the need for improved training of police officers. Subsection 42(1) states, "The duties of a police officer include...completing the prescribed training." Regulations to this act should define "prescribed training" and they should include race relations training, which is fundamental to good police service.

1800

Necessary training is also part of the promotion process. We must remind you that great tension and difficulties will follow if members are promoted without the most important training of all—years of intensive street experience. There is a great danger in identifying individuals for promotion without providing them with intensive street-level policing experience, as the officer may not have acquired the mental toughness to do this difficult and serious work, a required characteristic in dangerous and complex situations.

Mr Chairman, ladies and gentlemen of the committee, thank you for your attention. We are available for questions subsequent to Mr Roland's presentation.

Mr Roland: I am going to move a little more quickly because I have some 38 pages of rather dense typing on each page dealing with an analysis of the sections and subsections through the act. As one of the members has indicated, you can read all this and digest it at your leisure.

Let me focus on a few of them as we go through, and quickly. Subsection 10(3) deals with the subcontracting of police services by municipalities to the OPP to defeat collective bargaining. Under that provision presently, it is simply left to the Solicitor General to assure himself or herself that the purpose of the agreement to be struck with the Ontario Provincial Police is not to defeat collective bargaining.

The problem is that in collective bargaining in municipal forces, especially in small forces, the threat is always held over the head of the association at the bargaining table, or of the

members of the associations away from the bargaining table, that if they do not knuckle under to the positions that the employer puts forward they are going to end up losing their employment because the local municipality will simply contract for its policing from the OPP.

It is inevitably a cost exercise, and of course you have to recognize that collective bargaining is very much an issue of the cost of policing that particular municipality. That is one of the foundations of the collective bargaining exercise: How much is the employer, the municipality, going to pay for these services to be provided by the police members? What happens now is that the local municipalities frequently and increasingly ask the OPP to provide pricing quotations and they use that exercise and those quotations to try to intimidate their local associations in the bargaining exercise. If they find that the policing can be provided, they think, less expensively by the OPP, then they will proceed to negotiate with the Solicitor General's office for a contract to have the policing provided by the OPP.

The problem is that there is no onus on the municipality to show that it is not going through this exercise for the purpose of defeating collective bargaining. There is no way of examining that exercise. You cannot challenge the motive of the municipality in that exercise. They simply come forward and say, "We're doing it for these reasons or those reasons," and the matter is sort of accepted at face value.

What we propose is that the onus be placed where it should; that is, that it be the responsibility of the municipality in a proper hearing process to show that its motive is other than to defeat collective bargaining in its broadest sense, and that unless it is able to satisfy that onus, the Solicitor General not be in the position of approving this sort of contracting out of police services to the OPP.

The unfortunate thing in the present circumstance is that the Solicitor General really is making his determination in a vacuum. There is no process that assists him to decide what the real motive is, and that is the point of that amendment.

Let me move along to section 16, benefits to survivors. We simply say this is a decision that should also be one that could be with the local board, as opposed to just the council, where it is now.

On section 21 we talk about the composition of the Ontario Civilian Commission on Police Services. You will see in this text that there is really a complaint about the fact that the police community has not been involved, even on a consultative level, by the Ministry of the Solicitor General in the process of appointing persons to the Ontario Police Commission up until now. In most commissions like this that govern labour relations, where appointments are made by ministries—often, for instance, the Ministry of Labour or other ministries—the ministries at least consult with the parties. They ask for names. They put names forward. They go through an exercise of ensuring that there is some sense of general approval of who is appointed. None of that has taken place with the Ministry of the Solicitor General and the appointments to the Ontario Police Commission, and there is no reason to believe that any of that is going to take place with respect to the Ontario Civilian Commission on Police Services.

What this act does, though, is it develops a much better and more representative structure for, for instance, boards of inquiry. We say in this proposed amendment: Go to that as well, so that the real parties, the various communities or interests that are at stake, be represented in this organization, that it be a really representative organization, not simply something that is

put forward by the minister and up until now with even no input asked of the Police Association of Ontario, which represents all of these police officers.

Then we turn to section 22. This is an important one because it focuses upon the need to separate the adjudicator from the prosecutor, to separate the parties. In this legislation, interestingly enough you find that for boards of inquiry—I set this out on page 7—there is a requirement in subsection 95(7) that there not be any communication directly or indirectly between a board of inquiry and the participants, the parties. An amendment has been proposed similarly with respect to section 63, dealing with the local boards when they hear discipline appeals. What is absent from the legislation is the same kind of requirement for the commission. It is hard to understand why one would not put one in for the commission; that is, that the commission also not be communicating directly or indirectly with the parties in any kind of hearing process.

Likewise, and we come at this later, the same in the discipline process that is conducted by the hearing officer who hears appeals: You will know that it is the chief of police or his designate who is the person who hears the discipline in the first instance. He conducts a discipline hearing. Again, there is nothing in this legislation that separates him from the prosecutor.

Quite frankly, I can tell you that there is all kinds of the sense out there, and there has always been, that there are communications going on between the hearing officer—the chief or his designate—on the one hand, and the police prosecutor, who is assigned by the chief, on the other, that there are all sorts of extra-hearing communications, and lots of evidence of it. That has been a tradition of these hearings. It is something that quite understandably is seen as very unsatisfactory for police officers who are the subject matter of these discipline hearings and who get the sense that it is not all happening in the hearing room.

In my respectful submission and on behalf of the association, there is no logical reason why, if you are going to have this kind of direction to a board of inquiry and to the local boards, the same requirement should not be made of the commission and of the hearing officer at the discipline level. We ask that this be considered and introduced.

Let me go to page 8, on the commission disbanding police forces. There is the ability of the commission under clause 23(1)(c) to disband a police force. That is not by agreement of the municipality; that is unilaterally. The force is not being properly run or managed and so the commission can disband it.

1810

There is in this bill a provision for either agreement or arbitration of severance pay when officers lose their employment because of contracting out to the OPP, and that is fine. We have asked for that, it has been introduced and we applaud it.

What is absent here is the same kind of provision or some provision that provides severance pay to those officers and civilian employees who are left with no employment, not because of an agreement with the OPP but because the commission has simply said, "You are disbanded." Why? Because the board is not running the force properly or because the senior management is not running the force properly. It may have nothing or little to do with the way in which the officers or the civilians themselves are carrying out their duties. They have no severance. There is no allowance for severance pay, and that is a glaring omission in this legislation.

Jumping over to the probationary period, subsection 44(1), that has been amended. We have looked at those amendments

this afternoon and they are fine. They meet our interests and our needs and we therefore have nothing further to say there.

Discharge or retire disabled police officers, page 13, sub-section 47(2): I gather there has been introduced also in the amendments this afternoon an appeal added, and we have asked for that. However, what is missing from the amendment is an additional matter that we request be changed, that is, to change the word "receiving."

This means when the board hears the matter of whether an officer should be retired or dismissed from the force because he is mentally or physically disabled, all the board has to do is receive the evidence of two medical practitioners. The present Police Act regulation, section 27(e), says that they have to act based on the evidence of two medical practitioners. For some reason, "based on" has been changed to "receive."

"Receive" certainly leaves the impression, I think, and would leave it with judges, that they do not have to do anything more than hear it and can make their decision quite apart from that. That does not make any sense. They should be required to justify their decision based upon that medical evidence, not simply to receive it and then disregard it. We have asked then that "receive" be replaced by "based on," getting back to where we are presently under section 27(e) of the regulations.

Let's go to the next one, political activities. You will see the submission there. We want to see the regulations.

The legal indemnification provision in section 50 is very seriously and fundamentally flawed for the reasons that you will see set out here, because it does a number of things. For instance, it would deny an officer who has been sued civilly for negligence when something has happened in the course of his employment. It happens all the time that employees are negligent in the course of their employment and somebody is injured. It is not criminal or anything; it is just civil. He is sued civilly and he is found to be negligent.

Under the present scheme proposed, an officer will not be paid for his legal costs. That is extraordinary. Those have always been paid whether or not you are found negligent. What this means is that simply on an act of negligence, this bill proposes to penalize the officer by forcing him to pay his costs to defend a civil action.

Second, in the defence of a criminal prosecution, if the member is not found guilty, that leaves two problems. First—and this happens from time to time and it has happened for many years now in this province—officers may be found technically guilty but are granted an absolute or conditional discharge because the judge looks at the matter and says, "Well, you are technically guilty, but this is not a matter that should be treated seriously by the courts." In this province, many associations have negotiated that in those circumstances there is at least a discretion in the local board in those circumstances to pay the legal costs. Although you may be found guilty, you are discharged.

Also, you may be discharged after a preliminary inquiry. That is not a finding of not guilty. It is even better in a sense, but it is not a finding of not guilty. There are going to be arguments put forward on this kind of language, "Well, you are not entitled to it, being discharged after preliminary." We have already heard some of those arguments in arbitration hearings in the interpretation of collective agreements.

Finally, the section does not contemplate that an officer is going to be indemnified for such things as coroners' inquests because in a coroner's inquest an officer is not found to have acted in good faith. It is not the issue at an inquest whether the officer has acted in good faith. That is not one of the questions

asked of the coroner's jury or one of the questions that it would normally answer.

The problem is that under clause 50(2)(c) that is the result for things like coroners' inquests where the issue is not the officer's good faith but he has a legitimate need for legal representation because there is going to be in the public media and in the process itself a challenge to the officer's professionalism and integrity and the way he conducted himself and so on. He should have and has had traditionally a right to be represented, but he is not going to get legal indemnification.

That has to be changed and those are the sorts of things we are directing our attention to in that amendment.

The Chair: Mr Roland, if I can interrupt just for a minute. I think the committee realizes that you have prepared a very comprehensive brief and your association obviously is very interested in this particular legislation. I just wonder if we would be doing better justice to members of the committee and to your association if we adjourned your presentation to another date.

I do sense that there are members of the committee who wish to ask questions. They are interested in your suggestions and recommendations. But just to repeat, we were late getting under way because we required the consent of all parties to start while the routine proceedings were still going on in the House.

I am in the hands of the committee, certainly with the advice of your delegation, as to how we proceed. I do sense that some members of the committee are quite interested in pursuing some of the issues that you are raising. As I say, I am in the hands of the committee, and certainly your recommendations as to process would be received now.

Mrs Marland: I said at the beginning of this presentation that I felt it was one of the most significant groups that was going to be coming before this committee. Because of that—and personally I have at least five or 10 minutes of questions on my own and I am sure other members have, even at this point in the presentation—I would be happy to move that their presentation be adjourned and, whenever it is possible, for the clerk to reschedule them to complete their presentation, in order that we would have a full opportunity for questions. It seems to me that is the logical process in the best interests of the 17,000 members of the association.

The Chair: Mrs Marland has moved a motion to adjourn this presentation to another date.

Mr D. W. Smith: Can they come back early tomorrow? Can we start earlier tomorrow afternoon?

The Chair: No, not while the routine proceedings are on. Mr Jessop, I saw your hand up.

Staff Sergeant Jessop: We have, obviously, a time problem. We would appreciate an adjournment for the purpose of presenting the rest of our arguments. In addition to that—and I would assume that I have Mr Lymer's co-operation—Mr Roland is going to be attending with Mr Lymer and perhaps if you could allot that time, in addition to an adjournment, we could finish. I can tell you that many of these things that Mr Roland is speaking of are of crucial importance to us. We may go another 50 years without a revision to the act and we feel that we must present them.

The Chair: It is in that context that I am trying not to rush it. I am trying to provide the time so that we can do justice to it. Did someone have a question over here?

Mr Kanter: I was just wondering if the clerk could advise us when Mr Lymer is going to appear or when it might be possible to conclude this deputation, because I know our schedule is quite full.

Mr Roland: It is on 18 June, but for only half an hour. I act for the Metropolitan Toronto Police Association as well, and we were going to use that spot to really follow up on this presentation—because the Metro police association, of course, is a member of the PAO—and to deal with additional amendments and things that might come up between now and then. So it is not inconsistent to use that time spot for this.

The Chair: I think what we can do is we can undertake to use our best efforts to accommodate that type of scheduling. We obviously have to consult with some other people who are going to be making presentations.

Mr Roland: I think we will need more than half an hour, though. That is the problem on that day.

Mr Polsinelli: May I suggest, Mr Chairman—they are scheduled to appear at 3:30 on 18 June—perhaps we as a committee could meet 15 minutes earlier than 3:30 and give them 45 minutes.

Mr Philip: We cannot because of the standing orders.

Mr Polsinelli: If we have the consent of the House, I am sure we can do that.

The Chair: If we have the consent of the three House leaders, I believe we can do that.

Mr Polsinelli: So can we ask the clerk perhaps to endeavour to schedule it 15 or 20 minutes earlier than the Metropolitan Toronto Police Association?

The Chair: Why do we not simply leave a strong recommendation with the clerk to try to accommodate the time for those two groups at the same time? I am sure that Mr Arnott in his super-efficiency will be able to arrange that, as he usually does.

There is a motion on the floor. Is there any further comment?

Mrs Marland: I want to emphasize the fact that if you look at the list of deputations that are before this committee, the number that are individual groups that are coming from the same point of argument versus the total allotment of time for the Police Association of Ontario, it is inordinate. It just does not make sense. Although we have time allotments scheduled for deputations, I do not think, with respect, that adding 15 minutes to the Metro police's time is sufficient to finish with the PAO.

Mr Polsinelli: How about half an hour?

Mrs Marland: Half an hour would be fine.

The Chair: There is a motion on the floor. All those in favour? Opposed?

Motion agreed to.

The Chair: The committee is adjourned until 3:30 tomorrow afternoon.

The committee adjourned at 1822.

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J-20 1990



J-20 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Tuesday 12 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations
and Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le mardi 12 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Robert Chiarelli
Greffier : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 12 June 1990

The committee met at 1538 in committee room 1.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Acting Chair (Mr D. R. Cooke): I see a quorum. This is the standing committee on administration of justice and we are dealing with Bill 107, An Act to revise the Police Act and amend the law relating to Police Services. We are also dealing with the report of Clare Lewis, which was presented to the Legislature in April 1989.

MUNICIPAL POLICE AUTHORITIES

The Acting Chair: Our first presenters this afternoon are the Municipal Police Authorities, which I have been informed represents 111 out of the 115 police commissions across the province, including the three from which we have already had some submissions. Representing the Municipal Police Authorities are William Malpass, the president of the Sault Ste Marie Police Commission; John Whiteside, the immediate past president of the Windsor Police Commission, and Sandi Humphrey, the executive director. Welcome.

We have approximately half an hour. Hopefully, you will leave some time for some questions. You may use the time as you wish.

Mr Malpass: We thank you for the opportunity to appear before you today to discuss Bill 107, the Police Services Act. As indicated, my name is Bill Malpass. I am the current president of the Municipal Police Authorities and a member and past chairman of the Sault Ste Marie Board of Commissioners of Police. I am accompanied today by MPA's immediate past president, John Whiteside, who is also chairman of the Windsor Police Commission, and our executive director, Sandi Humphrey.

You have been provided with copies of our brief containing suggestions from our association as to how Bill 107 might be improved to better serve the citizens of Ontario. We will not be reading the brief to you but rather we will be providing in-depth information in three areas of major concern to our membership, those being the role and responsibilities of boards and the time it takes to perform the function effectively, the proposal for mandatory training of members of boards and, finally, our concerns relative to the need to ensure policing may be provided in municipalities in a cost-effective manner.

Prior to making our comments, I feel it is important that committee members understand the role played by the Municipal Police Authorities in providing support to police commissions and committees in Ontario. A voluntary membership association, MPA was formed 28 years ago. Currently, 111 of the 115 municipal police commissions and police committees in Ontario hold membership in the association. Our mem-

bers employ over 99% of municipal police personnel in the province.

MPA's mission is to promote and maintain the highest degree of professionalism on the part of municipal police governing authorities in the performance of their duty, to provide for and direct policing services and the administration of such services and to maintain law and order in their municipalities.

It is the further mission of MPA to promote the accountability of our members in the discharge of their duties. MPA, in co-operation with agencies of government and other associations within the police community, promotes and fosters the education and training of members of police governing authorities, including good management practices relating to the administration of finances, deployment of resources, labour relations, community relations and the performance of their quasi-judicial function.

MPA also undertakes to make recommendations for the improvement of policing services to government and other appropriate agencies on behalf of Ontario's police commissions and committees. In this regard, MPA has been represented by senior members of its board of directors upon the committee struck by the Solicitor General to reform police legislation in Ontario. The Police Association of Ontario and the Ontario Association of Chiefs of Police are also represented on that committee.

The consultative process made possible by the creation of the committee permitted the free exchange of views by those organizations having immediate and direct concern for the nature and quality of policing in Ontario. Bill 107 was drafted following such exchange and it reflects, in general terms subject to what is contained in our brief, a consensus which was achieved during committee meetings. In particular cases, it reflects unanimous agreement of committee members.

MPA commends the ministry and the government of Ontario for the initiative they have shown and the methods they chose to employ in reforming police legislation; as social, economic and cultural changes occurred within the province and as fundamental changes were required to be made in the delivery of police services to satisfy community needs and expectations, the present Police Act has proved itself to be obsolete and largely unworkable.

The MPA representatives on the ministry's Police Act revision committee make strong recommendations for change in the following areas:

1. The need for a declaration of principles to provide a constitutional basis for the provision of police services which reflects the true nature of such services and expresses the legitimate expectations of the citizens of the province, particularly in relation to community-oriented policing, sensitivity to the multicultural character of Ontario society and sensitivity to the disadvantaged and victimized.

2. The need for a clear definition of the role, duties and responsibilities of police governing authorities and their relationship to and with chiefs of police and members of police services.

3. The need for governing authorities to continue as autonomous bodies having the mandate to ensure that police

services are provided within their communities in accord with the particular needs of and special conditions and circumstances relative to such communities.

4. The need for statutory authority to permit the administration of the work of governing authorities to function on a more efficient and effective basis consistent with their fiduciary obligations.

5. The need for a disciplinary system which reflects changing relationships within the police service and gives emphasis to the need for an informal and remedial approach to discipline.

6. The need for reorganization of the system of collective bargaining and arbitration of disputes to ensure that fair and appropriate controls are established so as to ensure proper relationships being maintained in particular communities between members of the police service and other municipal employees and persons in the private sector.

The Police Services Act reflects in large measure an appropriate response to certain of these concerns. We note, however, that it falls short of what is essential in the area of management rights, collective bargaining and arbitration. In doing so, it has failed to address what has become the single most significant impediment to the efficient and effective delivery of police services; namely, escalating labour costs resulting from uncontrollable labour negotiations and arbitrations, and the retention of work practices and benefit programs which have long since proven redundant and unnecessary for the protection of members of police services. Mr Whiteside will comment, more specifically addressing this concern, in a few moments.

As stated a moment ago, MPA is most pleased that Bill 107 provides, in section 31, a detailed explanation of the responsibilities of a municipal police governing authority. We understand that the Ontario Association of Chiefs of Police has objected to the provision in subsection 31(1) which provides that the board be responsible for determining the objectives and priorities with respect to police services in the municipality. The chiefs declared their opinion that this provision usurps their function and duty.

The members of the standing committee are reminded that the objectives of the draftspersons of the bill included the following: (1) an objective to render police services accountable to a civilian body which was representative of the community and capable of reflecting the reasonable needs and expectations of the community; (2) an objective to provide explicit definitions of the duties and responsibilities of police boards, chiefs and police officers so as to promote greater accountability and efficiency; (3) to adopt a modern corporate model for the governance of police services to promote better administration.

Clause 31(1)(b) reflects these objectives. It makes explicit the role of police boards implied by the Police Act, wherein they are responsible for policing and the maintenance of law and order in the municipality. It reflects the relationship existing in a business corporation between the board of directors as policymaker and the chief executive officer as executor of the board policies, thus promoting clarity of function and greater accountability, particularly in light of other sections which define the role of chiefs and express strict limits upon interference with that role by individual members of boards, and it advances the strong sentiments of the community to assure that police services are firmly under civilian control. It is urged that no change be made to this paragraph.

I will now ask Sandi Humphrey, our executive director, to comment on the selection and training of members of police governing authorities.

The Acting Chair: I apologize. I indicated you had half an hour. You have an hour, as was previously arranged.

Ms Humphrey: We would like to address the committee briefly on MPA's position regarding the selection and training of members of police authorities in Ontario.

In 1989, the MPA established a long-range planning committee to formulate an action plan to lead the association into the 1990s. The resulting report, known as *Future Vision*, was adopted by the membership of the association in October 1989. *Future Vision* contains a strong set of action plans to address specific issues and ultimately provide for an association of increased benefit to the membership.

Objectives were established for 10 different areas, including the professionalization of members of police authorities, the education of members of police authorities, MPA's public image and the public understanding of the role and responsibility of municipal police governing authorities. It is anticipated that the 57 specific projects contained in the report will be completed within a three-year period.

Of high priority upon acceptance of the report by our membership were the strategies relating to the professionalization of members of police authorities. MPA recognizes that police authorities are hampered in their effectiveness by the limited time allowed to serve by the province of Ontario and municipal elections. Constant changes within each authority, coupled with the changing role in policing and the social makeup of communities, require a constant commitment on the part of MPA to ensure that governing authorities discharge their duties with the highest degree of professionalism.

1550

One of the specific strategies to assist in this regard was the development of a brief recommending the establishment of criteria for the selection of members of police authorities in Ontario, which is now in the hands of the Ministry of the Solicitor General.

The brief addressed the following specific areas: first, the need for the development of criteria for the selection of provincial appointees to police governing authorities in Ontario. MPA's recommendations suggested potential appointees should be well respected in the community, should be actively involved in the community through employment groups or organizations and, as a result, have developed links with community leaders and an awareness of the community's values and concerns. Further, the composition of the police governing authority should reflect the demographics of the community.

Second was the need for potential appointees to understand the commitment they are making prior to accepting an appointment. A survey of members of Ontario police governing authorities reveals that members spend anywhere from 10 hours to 50 hours per month on police business. This amount of time can increase dramatically if a member is required to be the board representative on the negotiating committee.

As executive director of MPA, I have often been told by provincial appointees to commissions that they had absolutely no idea what they were getting themselves into when they accepted their appointment. In almost all cases, this referred to the time commitment involved and the complexity of the work.

The brief also addressed the need for communication of developed criteria and commitment details to potential appointees and acceptance of same prior to accepting their appointment. We believe it must be incumbent upon those being considered for appointment to understand the time involved to

perform the role of a member of a police governing authority effectively prior to being appointed to the position.

Our brief is now in the hands of the Ministry of the Solicitor General, and the minister has advised us that a joint MPA-ministry committee will soon be established to begin work in this important area. It is our intent at that time to continue to press forward for an amendment to the province's policy of limiting the length of time a provincial appointee may serve on a commission to six years.

In light of the many responsibilities that fall to members of police authorities in Ontario, we urge that serious consideration be given to those candidates who show dedication, knowledge and a commitment to their role, individuals who will benefit not only their own communities but the province of Ontario and the citizens of this province.

Also in the hands of the Ministry of the Solicitor General is our brief for a proposed police board training program. The MPA membership has overwhelmingly supported subsection 31(4) of Bill 107 requiring each board to ensure that its members undergo training.

In fact, MPA's Future Vision report adopted by the membership contained a strategy whereby MPA encouraged the Ministry of the Solicitor General to mandate training of all members of police governing authorities. Our comprehensive proposal for a joint ministry-MPA-police board training program for the ongoing professional development of members of police authorities is now in the hands of the ministry, and while not yet formally adopted, we understand the proposal has been very well received. The proposal outlines 38 different subject areas that should be addressed in a comprehensive training program which would be delivered across Ontario by MPA and monitored by both MPA and the ministry on an ongoing basis.

MPA further recommends that participation by members of police governing authorities in the training program and participation in meetings at the local level be monitored and reviewed prior to reappointment to the authority by the province.

The board of directors of MPA believes that if new appointees have a clear understanding of the responsibilities they were undertaking and, further, that they committed to professional development, both the government of Ontario, together with MPA, can provide Ontario's citizens with the most advanced police governing authorities in North America.

You will note in our brief, beginning on page 8, our comments with respect to part III, municipal police services boards, including our recommendation that the name Board of Commissioners of Police be retained for its historical significance. We propose that the board be empowered to elect its own chair, which we understand has now been put forward as an amendment; that the oath of office for members of police authorities make reference to the maintenance of secrecy and confidentiality; that the power to delegate authority be subject to the bylaws of the board or, in the case of discipline appeals where such bylaws may permit, delegation to a hearing panel; and that matters relating to the administration of human resources be included among the prescribed exemptions from the holding of public meetings.

We must report that a difference of opinion exists within the MPA membership with respect to two matters in part III. These relate to the abolition of police committees of council and the requirement for a majority of members of police services boards being appointees of the Lieutenant Governor in Council. Because of such a difference of opinion, MPA, as a representative body, cannot adopt a formal position with respect to

these issues. We note, however, that a position with respect to them will be placed before this committee by the Police Association of Ontario, the Ontario Association of Chiefs of Police, the Association of Municipalities of Ontario and individual members of MPA, all of whom will make their views known and provide the reasons for the difference of opinion.

We further note that the provisions contained in Bill 107 with respect to these issues were unanimously agreed to by members of the ministry's Police Act revision committee as being necessary to ensure autonomy and independence of governing authorities, chiefs of police and the police service.

I will now turn to Mr Whiteside, who will provide comments on our concerns in the area of labour relations management rights and cost-effectiveness.

Mr Whiteside: First, as a person who has been deeply involved in the formulation of the Police Services Act, may I be permitted to make one or two general observations.

In philosophical terms, the Police Services Act is an outstanding piece of legislation and one in which this Legislature may take great pride. The declaration of principles contained in section 1, which is a constitutional mandate directed to governing authorities, chiefs, senior administrators and members of police services, places Ontario policing services at the leading edge of the thrust towards social justice in Canada. The constitutional mandate and the restructuring of the organization of municipal forces, coupled with the careful definition of responsibilities, imposes accountability and promotes openness. I take great pride in having been associated with others in the formulation of this legislation, as I do the fact that I have been privileged during the past six years to be associated with the outstanding men and women of our police services throughout the province.

It is for me a source of profound grief and dismay that the members of the police service should be subjected to the abuse and opprobrium which have been inflicted upon them by persons appearing before this committee and as reported in the media. I am reminded of the words of Sir Robert Mark, the Metropolitan London Police Commissioner, "The police are the anvil on which society beats out the problems of political and social failure." I think the frustrations felt by persons making their appearance are unfairly being directed towards police officers in Metropolitan Toronto and, by extension, to officers throughout the province.

I say again that this legislation, the Police Services Act, when proclaimed, will reflect great credit upon the Legislature of Ontario. I say regrettably, however, that it is fatally flawed and without a basic and fundamental change it will result in serious dislocation of policing services, a reduction in their efficiency and effectiveness, and ultimately confrontation between police boards, municipal councils and the provincial government. I speak of the fact that the bill contains no provisions for the orderly and controlled negotiation of collective agreements and for the protection of the rights and duties of chiefs and senior administrators to manage and deploy their resources to assure adequate police protection and cost-effective policing.

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I ask you to reflect on two factors. In the past two years, the labour costs of policing services have risen 15% in the municipalities of Ontario without a corresponding increase in productivity. This increase is coupled with the obligation imposed by the government upon local services to assume the costs of court security, pay equity, freedom of information, in-

creased training, particularly in the area of race relations, victim services and the citizens' complaint process, all of which have and will increase policing costs.

These rises, over which local governing authorities have virtually no control because of the structure of the Police Act, have, with some justification, resulted in local councils losing confidence in the ability of local boards and senior police administrators to govern their services effectively, efficiently and economically. They are the root cause of the objections taken by municipal councils to the bill, as you will most certainly hear from the Association of Municipalities of Ontario in the next few moments.

I repeat, there is nothing in this legislation which permits local boards to control not only wage and benefit costs, but also to assure that the provisions of collective agreements do not impair management rights and the ability of chiefs and senior administrators to deploy their resources in a cost-effective manner.

I note the following: There is no provision for the exclusion from bargaining units of those engaged in work which is confidential in the area of personnel and labour relations. This is unheard of in any rational system of collective bargaining.

There is no provision to penalize those who refuse to bargain fairly and meaningfully or those who engage in strike action and slowdowns, thus impairing public protection. This is also unheard of in any rational system of collective bargaining.

There is nothing to control the jurisdiction of arbitrators and few explicit criteria imposed for the determination by them of fair and equitable wages and benefits, and above all, there is nothing to control decisions taken by arbitrators in respect of operational matters. Let me repeat that. There is nothing to control the decisions taken by arbitrators in respect of operational matters under the guise of determining working conditions, which in the most direct and immediate way undermines the role of chiefs to direct their forces.

All of these must be considered in the context of the arbitrators themselves, worthy individuals all, having had little or no experience in the area of police operations, yet venturing to render decisions under the guise of working conditions which have a vital impact upon the very core of police operations. It is this very condition which has directly resulted in the horrendous rise in police costs in the past two years, a rise which is, if I may say so, intolerable to municipal councils, ratepayers, governing boards and senior administrators alike.

I invite this committee to investigate and satisfy itself of the facts that I will now disclose. In 1988, a survey of the province's economy and a history of municipal bargaining indicated that a wage rise of 4.5% to 5% would be appropriate for 1989. In the course of bargaining, a bell-cow regional municipality voluntarily agreed to a two-year agreement providing for an end-rate increase of 15% at December 1990 for one reason only: to avoid arbitration of an issue unrelated directly to wages and benefits, fearing that the decision of the arbitrator would result in the imposition of an even greater cost to the regional municipality and seriously undermine the chief's authority. This decision established a pattern throughout the province, with the horrendous results we are now faced with. This is a blow from which local municipalities will not soon recover.

Let me illustrate all that I have been saying to you by reference to a specific matter which has now come before you. It is illustrative of the absolute need to avoid generalizations and ambiguous language in this area and to reflect the impact of

language upon police operations. I refer to the government's motion to amend section 53 by adding the following subsection,

"(3a) A special constable shall not be employed by a police force to perform, on a full-time and permanent basis, all the usual duties of a police officer."

I shall not speculate on the reasons for this amendment being introduced. I point out, however, that it has the effect of undermining the arrangements made in many forces for the provision of court security and for the needed emphasis upon civilianization within policing services to accommodate race relations policies, to provide for role differentiation and to assure greater efficiency and economy in police services.

Let me emphasize the last point to illustrate the ambiguity and the problematic nature of the amendment. It speaks of "the usual duties of a police officer." This, of course, begs a central question in the reform of the police service: What are or should be the duties of a sworn officer; what duties require the power of arrest; and what may be assigned or delegated, in the interests of greater efficiency and cost-effectiveness, to special constables and civilian staff?

The recommendations contained in the race relations report imply that these questions must be the subject of intensive study and investigation. The efficiency and effectiveness of policing services demand it. And the questions are too important, as are many others over which arbitrators have assumed jurisdiction, to be answered by an arbitrator whose knowledge of police operations and practice is minimal.

I predict that this amendment will be the subject of arbitration within three months of the bill being proclaimed. Police associations will argue, with justification, that all court security personnel must be sworn officers; and the arbitrator, whose only experience of police officers, again, is likely the receipt of an occasional traffic ticket, will be called upon to make the final and binding adjudication. The result will be to increase the costs of court security by 30% or more. In Windsor, this would amount to \$250,000 a year, and in Toronto, millions of dollars. This makes no sense to me, and I sincerely hope it makes no sense to the members of this honourable committee.

In conclusion, may I offer two suggestions which may in part redress the gross imbalance I have cited: First, reject the proposed amendment on special constables and, second, include a provision in the bill which provides that all decisions by an arbitrator relating to working conditions as referenced in subsection 118(3) shall be the subject of appeal by either party to the Ontario Civilian Commission on Police Services, whose decision shall be final and binding. In this manner, all matters that relate to police operations shall be subject to ultimate review and decision by a professional, knowledgeable and informed body which may render a decision taking into account all factors relating to police operations, including the safety and security of officers and the public and the legitimate needs of senior police administrators in the execution of their duties.

Surely there can be no justifiable objection taken to this proposal, which is consistent with other procedures described in the bill to assure an orderly, fair, knowledgeable and professional resolution of questions arising out of the administration of police services. It is a procedure which assures fair dealing for the parties to the dispute and the protection of the public's interests.

In the strongest possible terms, may I say this to the members of the committee: I urge your careful consideration of these specific proposals. Without their adoption, you deny boards and chiefs the ability to carry out the reform of police services and

you place in the hands of uninformed arbitrators the exclusive power to make these vital decisions.

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Mr Malpass: We would like to remind members of the committee that of the approximately 800 municipalities in Ontario, 200 assume the financial cost to provide policing, either through maintaining the municipal police force or contracting for police services through the Ontario Provincial Police. The remaining 600 municipalities in Ontario are policed at no cost by the Ontario Provincial Police. This inequity needs to be resolved. All members of the Police Act review committee, including representatives from our association, the Police Association of Ontario and the Ontario Association of Chiefs of Police, made strong representations in this regard, and Bill 107 fails to address this matter.

We urge that this fact be given serious consideration. We urge you to review our detailed submission, containing many recommendations beyond those that may be considered housekeeping matters.

We further urge the government of Ontario, at the conclusion of five years after proclamation of Bill 107, to reconvene members of the Police Act review committee established by the Ministry of the Solicitor General for the purpose of examining the effectiveness of the legislation and proposing such changes as may be appropriate. This is a most important area, given the constant social change under way in the province.

Finally, we recommend that the concept of local autonomy of police boards be reinforced by the addition of the following as paragraph 7 of the declaration of principles:

"The need to ensure that police services, law enforcement and crime prevention are provided in accord with the particular needs of the community served and the special circumstances and conditions relating to such community."

In light of the wide divergence of economic and social conditions in the several parts of the province, such a statement is deemed essential to assure that local boards will take into account the special needs and conditions existing within their municipalities and that the Ministry of the Solicitor General and the Ontario Civilian Commission on Police Services will take these factors into account in making judgements concerning policies formulated and decisions taken by local boards.

We thank you for your attention and we welcome any questions from the committee.

The Acting Chair: Thank you very much for a very thorough presentation. Mr Smith has a question.

Mr D. W. Smith: In that last statement you made about the 600 municipalities that had no policing costs, are you suggesting that we should try to get some revenues out of those 600 municipalities to help defray the costs that are there now or that you foresee in the very near future, or are you suggesting that we should be almost forcing some of those 600 municipalities to develop a police force of their own? How are you thinking along those lines there?

Mr Malpass: What we are concerned about is the equity to all people in the province for the cost of policing. We are suggesting that in the manner in which they employ policing they would still possibly have OPP policing, only under contract, similar to their neighbour municipalities which are presently doing that, some of which are similar-sized communities. Now in communities of same size, same conditions, even in same areas and regions, we have some that are paying OPP-con-

tracted policing and others receiving OPP policing for free. Put them all on the same basis so that those communities, through their tax dollars in Ontario, are provided services on an equitable and fair basis.

It would be up to those individual communities. They could in turn decide, as many small communities have, to expand their services by using a commission, and the commission could still carry on and contract with the OPP or in turn develop their own municipal forces. That decision should still be left to the individual municipalities on the manner in which they wish policing, but in effect they all pay for policing in a similar manner.

Mr D. W. Smith: I do not know whether I am hearing you right or not, but I guess everybody pays for the OPP somehow or other through taxation, and it would appear that you are almost thinking that these other 600 municipalities that do not pay that double charge by having an association of their own, we should be able to get some more revenues out of them, somehow or other. I guess I will leave it at that.

Mr Malpass: That is correct.

Mr D. W. Smith: That is fair to say what you are thinking?

Mr Malpass: The comment came to us, especially from many smaller communities of equal size, one having OPP-contracted policing where they pay for their local policing through contract, the other community with very similar OPP-provided policing at no cost.

Mr D. W. Smith: I can think of two in my own riding of Lambton. Petrolia, which is about 4,200 people, has its own force. They also have one of the stations of the OPP there, which is right at the edge of town. I guess we will have to call it the village of Corunna. It is a community of about 5,000 or 6,000 people, but because it is incorporated into the township of Moore, I do not believe it pays any policing costs. So I guess I see what you are driving at, and yet I know that if I have to go back and tell that municipality of Moore, "You're going to have to pay more," we have got another problem on our hands too.

The Acting Chair: Tell Petrolia it has to pay less.

Mr Malpass: I am not saying it would be a popular decision. Possibly the redistribution of those dollars throughout the entire province would assist with some of the—

Mr D. W. Smith: Or county wide; that is what you are talking about a little bit here as well, I think.

Mr Malpass: There are some that are using those options as alternative forms of policing in joint police forces.

Mr D. W. Smith: We have a lot of problems in Lambton right now. I do not want to bring up any more.

Mr Philip: Do I take it from your comments that you would like to see a sunset clause in this bill, that after five years there would have to be a review, perhaps public hearings on the bill before it would continue? Sunset clauses have been built into other legislation. The Australians are most notable for building it into some of their legislation. We do have a couple of precedents here in Ontario of sunset bills. Would that be a solution to your concerns that we may be moving too quickly or we may be moving too much by regulation without knowing the full implications of this legislation?

Mr Malpass: I do not believe that we are concerned with some changes with the final document, that it will be an im-

proper document. It is the concern that we have experienced such changes in the past five years, when we look back. With all the changes, we are suggesting that a review process come up in another five years. I am not sure that the sunset clause is necessary so long as there is a review in the five years. I believe our last Police Act has been some 41 years in existence, and it is really that length of time that has made it inadequate and unworkable. So the emphasis is really to take a look-see and review the legislation. I do not believe it is the concern for the ultimate bill as being as serious for us.

Mr Philip: Do you have any concerns that a very large number of the changes that will result from this bill are done by regulation and therefore you do not know what those changes are?

Mr Malpass: That is not a concern for MPA. We have been assured that we will be part of the process in terms of reviewing those regulations, along with the chiefs of police and the police association. Actually, that process, we believe, can be very worth while and come up with very good regulations that can effectively provide good policing for each of the various communities and make sure they are regulations that fit the whole province and not just regulations that are applicable to one or two areas. So we are not concerned with that.

Mr Philip: I hope you are right, because other groups do not share your optimism.

There has been a suggestion by some deputants that perhaps this bill really is trying to do too much, that the whole area of police complaints procedure should be separate legislation, that it should be handled as a separate piece of legislation and dealt with at a separate time or in a separate manner. Do you have any views on that, that the ombudsman function, if you want, is different from the administrative function?

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Mr Malpass: The concerns we are hearing from our membership concern the possible costs of that part of it, but having that type of approach will give that independent review process more merit, and if it is outside the bill or within the bill, I do not see any concern there.

Mr Philip: One last question. Perhaps Ms Humphrey would be the best person to answer, although any of you might comment. In terms of police training, based on the experiences in your own communities, what is the greatest need? What are the kinds of things that need to be built into the present police training programs that you feel is lacking?

Ms Humphrey: Are you speaking of training police personnel or of training members of commissions and committees?

Mr Philip: Training police personnel, police officers and administrations.

Ms Humphrey: I will defer to the two gentlemen on my right.

Mr Whiteside: One of the objectives that the draftsman had in mind was the greater professionalization of police services. I do not think I would care to identify any particular area, Mr Philip. There is a need for increased training with respect to all aspects of a police officer's work, and if you take a look at the statement of principle set out in section 1, you will see identified there some areas that have not been given any emphasis—indeed, have been neglected for too many years. So there is a need for not only training, but I would also like to use

the word "education," particularly with respect to the statement of principles. The police service, and I think that word is important, implies the role of a police officer to be a serving individual contributing to his or her community, so if you talk in terms of his education, it must be an ongoing process and one of the widest possible scope.

The problem for governing authorities, of course, and for municipalities is that the costs of training are very, very large. We are committed to it, but that means police budgets are going to continue to escalate, and this is our reason for urging on you the need for some provisions to assure that we can control these costs in an appropriate manner.

Mr Philip: Would you agree that there are differences from one municipality to another in terms of the quality and indeed of the amount of training that takes place for police officers and supervisors and that under this act the ministry will be able to set standards? Will this lead, in your opinion, to a greater consistency in the quality of police forces across the province, and if so, where do you put the emphasis?

Mr Whiteside: Again, I am not able to answer your last question, but in general terms the establishment of standards—and this is a process which was begun about a year and a half ago by the ministry in which we have all participated—the legislation is intended in part to address that question. What is desired is that the standards be increased and that all police services within this province achieve, at the very least, that minimum standard.

If you talk in terms of where the emphasis should lie, that to some extent depends on the particular municipality. For example, for a municipality which has rather deep-rooted sociological problems, whose demography differs from that of others, there must be a greater emphasis on race relations, education and training. There must be greater emphasis upon developing a greater sensitivity to the disadvantaged.

Again, one of the reasons we urged the addition of a seventh paragraph in the statement of principles was to assure that each local board could identify local needs and give emphasis to those local needs and be mandated to do so. One of the great concerns, and my colleague touched on this, not only in the area of policing—and I hope I do not offend any members of this committee; Mr Kanter may object—of those of us in the province is that there are too many rules and regulations that are geared to Toronto and we ask that consideration be given to those of us in Sault Ste Marie and Windsor and elsewhere.

Mr Kanter: I have heard that before.

Mr Whiteside: To take up the observation made by a member of the Thunder Bay board, "The shadow of the CN Tower doesn't extend so far as Thunder Bay," and I can assure you it does not extend so far as Windsor, nor do we want it to.

Mr Philip: So what I hear you saying, and correct me if I am wrong, is that in the standards, and we do not know what they will be, there should be some basic minimum standards that would apply to all municipalities, but in addition to that, the standards above that have to have some flexibility built in that would focus on local community needs and the objectives would have to be set with local input and evaluated or audited, if you like my terms, with local assistance.

Mr Whiteside: They would be determined by the local board, they would initially be audited by the local board, with appropriate supervision, and then at a later point in time the

ministry, through the policing services division, would also conduct its audit, and we welcome that.

Mr Philip: One last question. In the light of your concerns, concerns about the differences in communities, and in the light of my concerns that regulations may be made centrally that may not be applicable in every community—and my colleague has some concerns that Toronto conditions do not apply to At-tawapiskat and Big Trout Lake but that his conditions also do not apply to mine—does it not make some sense, as some people have suggested, that there should be the safeguard of an independent outside auditor who could from time to time, if there are observed problems, independently audit so that it is not just somebody in the Solicitor General's office or in Toronto making decisions without the advantage of an independent evaluation? Would that be a safeguard to both you and to the ministry to know that it is getting value for money?

Mr Malpass: I do not see the necessity for that step. Through the regulation process, if we have the consultative approach that we have been assured is coming, through MPA and its diverse membership you really get the input for balanced regulations. Also, you do have the input of the chiefs and police associations in a similar manner. They are also representative from various parts. Those regulations we see as being developed in that consultative manner would meet the needs of the various communities.

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Mr Philip: In hindsight, if you had been a child abused in a home where the police had not done adequate investigations based on complaints, be it in this province or in some other province that we have heard so much about on the news lately for a variety of reasons, do you not think an independent auditor might have caught that kind of problem?

Mr Malpass: Not having reviewed individual situations, I am not sure that I have an appropriate comment there. I do not believe there is the kind of concern that we are hearing from many communities of a need for that. No doubt there are situations in some communities or very few communities that have problems, but I am not sure that a large review of everything may be able to plug all holes. There are obviously going to be some concerns ongoing regardless of the regulations.

Mr Philip: I will not argue with you. I just feel that an independent outside audit might have caught those situations where inadequate police work did not deal with the problems of abused children in orphanages and other places historically. We may never know that, because we do not have the results of what did happen in some of these places, but I would just feel a lot more comfortable if I had that kind of independent outside authority auditing, on a timely, occasional basis, some of the investigations.

Mr Malpass: The role of commissions and the makeup of commissions bring people to that from the community who are sensitive to those and hear of those concerns. I think there is that input that should not be ignored as well.

Mr D. W. Smith: I am just a little bit curious as to why there are four municipalities that are not part of your association. Can you name those four municipalities, or is there any particular reason why they do not like you or will not join with you?

Ms Humphrey: There are three that have not been members for about a three-year period. They are Sterling, Alexandria

and Deseronto. As I understood it, when we made some major additions to our services in the area of labour relations, statistics, etc., and had to raise our annual fees, they said, "We can't afford to pay that money." They have not been members since I have been executive director. The other one is St Thomas. It is a voluntary membership association.

The Acting Chair: Thank you very much for your presentation. It was very complete and comprehensive. The minister was listening and so were members of the committee.

Mr Malpass: Thank you for your time.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Acting Chair: Reference was made during this presentation to the next presentation, which is the Association of Municipalities of Ontario. We have with us Grant Hopcroft, the president of AMO, who is a familiar face around this Legislature, and a councillor of the city of London. Accompanying Mr Hopcroft are John Harrison, first vice-president, councillor from the township of Delhi; Bill Mickle, a member of the fiscal policy committee and reeve of Exeter; John Kenter, a member of the Ontario Municipal Personnel Association and personnel director of Guelph; and Mabel Dougherty, the warden of the county of Brant and chairman of the rural section of AMO.

Ladies and gentlemen, welcome. We have your very thick presentation in front of us. Perhaps you could lead us through it quickly. You have approximately half an hour; hopefully you will leave some time for questions.

Mr Hopcroft: It gives us a great deal of pleasure to have an opportunity to bring in our position to the standing committee. As you are aware, AMO and its 700 member municipalities have a number of concerns, and in our presentation this afternoon I would like to specifically draw your attention to the composition of municipal police services boards and the labour relations issues addressed in the legislation.

Bill 107 requires municipal police services boards to be established in all municipalities that have been legislated to provide policing services. In accordance with current appointment mechanisms for boards of commissioners of police, the majority of board members on these newly founded police services boards will be provincially appointed. Furthermore, I understand the legislation still calls for the chair of local police services boards to be designated by the Lieutenant Governor, although I understand there may be some amendments. Have they already been tabled, by the way?

Hon Mr Offer: Yesterday I tabled a series of amendments, one of which was that the selection of the chair of the local board of commissioners would be made by that particular board.

Mr Hopcroft: We certainly welcome that step in the right direction on behalf of the minister, and we hope that marks just the beginning of further amendments to meet the concerns that we as municipalities have with the bill. Thanks to the minister for introducing that amendment.

The rationale which underlies the suggested composition of municipal police services boards appears to be tripartite in nature. The province appears to uphold the view that the composition of the present boards of commissioners of police has proven to be successful. Thus, it is argued, there is no immediate need to tamper with the makeup of the local governing bodies of police services. A second provincial argument in

defence of the current composition of boards of commissioners of police is that policing is too important a matter to be dealt with by local government.

Finally, the provincial government appears to be concerned with the potential for local political interference in police operations. What are the ramifications of this policy position for Ontario municipalities and for our citizens? The envisioned provincial appointment procedures for local police services boards place principal decision-making powers regarding delivery, administration and budgeting of police services in the hands of the provincial government. At the same time, it is the local taxpayer who provides the necessary revenue base for these services.

In Ontario, 51 of 124 municipal police forces are directly governed by their local municipal councils. Bill 107 will effectively strip these municipal councils of budgetary and policy-setting control over local police services. In short, policing based on the suggested provincial model of service delivery constitutes a provincial service financed by municipal tax dollars.

AMO strongly opposes the provincial standpoint on this subject. AMO emphasizes the need for municipally funded police services to be under municipal control, while at the same time recognizing that there is a provincial watchdog role and a provincial interest in maintaining consistency in terms of police services and crime prevention across the province. Thus, AMO recommends that the proposed municipal police services boards be made directly accountable to the municipal councils in our communities.

First, accountability of police services to the local electorate can be established logistically by instituting municipal police services boards as committees of council and/or by ascribing to local government the right to appoint the majority of the board. AMO recommends that these amendments be introduced to recognize the legitimate municipal interest in this service.

Second, all evidence suggests that municipal control over local police services has been successfully practised in a great number of Canadian metropolitan centres. For instance, cities such as Montreal, Calgary, Winnipeg, Edmonton and Halifax have the authority to appoint the majority of their boards. The provincial government's concerns regarding the potential inability of local government to effectively manage police services are unfounded.

Third, AMO strongly believes that the policing needs of a particular community can best be met by a locally governed and locally directed police force. Municipal officials, who are in constant interaction with their constituents, have the awareness and the knowledge of the special policing needs and challenges faced by their respective communities. It is important to note also that several recent regional reviews of police forces found no risk of political interference from having greater municipal control over police forces. Indeed, the regional reviews concluded that there is a greater risk of political interference in police operations in cases where the provincial government appoints the majority of police boards.

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Accordingly, AMO strongly urges the provincial government to modify the composition of municipal police services boards, and unless and until these modifications to the makeup of local boards are undertaken, AMO recommends that the provincial government amend the bill to explicitly state the fact that the control and funding of police forces throughout Ontario are provincial responsibilities.

One last point before I ask my colleague Mr Kenner to deal with a number of the labour relations issues is that there are different rules and different treatments being suggested for differing types of municipalities in subsections 4(6) and 4(7) of the bill. AMO is concerned that these municipalities are being treated in a different manner without, apparently, any rationale.

AMO has recently struck a committee, which is being led by the rural section of our association, to make some recommendations to the provincial government in terms of a rationale for deciding which municipalities should receive free policing, and under what circumstances, and which municipalities should be paying. We urge the committee to amend subsections 6 and 7 to leave them flexible enough to implement the recommendations of AMO at the time we bring them forward.

I would like now to call on Mr Kenner to make some comments regarding the labour relations issues.

Mr Kenner: There are seven areas that we are concerned about at AMO with regard to the labour relations issues. I will be as brief as I possibly can with those issues.

Number one in the bill is senior officers. According to Bill 107, senior officers can be in the same bargaining unit as other members of the police force. The danger of this procedure lies in the possibility that senior officers who temporarily assume management functions will interpret and enforce terms of their own agreement against fellow senior officers. Under the present act, the senior officers are allowed to have their own bargaining committee, and the AMO position is that there are only two other groups in the province, those being police and fire, that have only two members out of the bargaining committee. Even under the Crown Employees Collective Bargaining Act of the province, managerial positions and confidential positions are out of the bargaining unit. That is the one issue.

The second issue is the bargaining categories. We are a little confused by this area. The bill makes the provision that allows a police association to assign members of different categories for collective bargaining purposes. Each category can be treated as if it were a separate police force for these purposes. This regulation could potentially result in a high degree of fragmentation of bargaining categories. Concurrently, one can expect higher costs of policing and more time-consuming bargaining processes.

Under the present act there are the uniformed and the civilian and then the senior officers and senior civilian that are allowed to form their own bargaining units. Under the new act this area is very fuzzy to us. We are concerned whether second class, first class, sergeants, any other area in that division, can form their own bargaining unit or category.

Management rights is another issue that AMO is concerned about. The bill makes the provision that certain management functions be negotiated as part of the collective bargaining procedures. In order for management to have full authority over police operations, these management functions should be excluded from any bargaining process such as collective bargaining and arbitration. Again, I refer to the province's Crown Employees Collective Bargaining Act, where it lists the areas that are eliminated from the collective agreement.

The list of management functions to exclude would be employment, appointment, organization, assignment, work methods and procedures, kinds and locations of equipment, classifications of positions, promotion, demotion, transfer, layoff, reappointment, merit system, training, development and appraisal, dismissal, discipline and suspension. AMO believes these do not belong at the bargaining table. They should be management rights and kept out.

Conciliation is the next area of concern. The Solicitor General should appoint a conciliator at the request of either party, both during the negotiation phase of the collective agreement and during dispute settlements.

Interjection.

Mr Kenner: During dispute settlements it is done? Thank you. The minister has indicated to me that is one area they are looking at. I will not go on with that one.

Composition of arbitration boards: AMO endorses that the three-member arbitration boards be outlined in Bill 107, with one important change. If two parties cannot come to an agreement about the chair for the arbitration board, the Solicitor General should appoint a chairperson from among those persons who have not been previously considered or rejected by the other two members. Our concern, of course, is that if one member of the arbitration board has been refused by management or the association or union and is appointed by the Solicitor General, it causes a little bit of difficulty at the negotiation-arbitration session.

Criteria for arbitration: AMO recommends that the following criteria be established for settling arbitration disputes. Again, I refer to the Crown Employees Collective Bargaining Act, which states the arbitration criteria. I will not read that, but it is the same.

Notice to bargain: AMO recommends that Bill 107 be amended to allow police services boards to initiate the bargaining process, to allow boards to be represented by agents at bargaining sessions and to allow chiefs of police to be part of the management negotiating team. In the past, the chiefs of police have been eliminated from this process. We feel that they definitely should belong at the negotiating table. They are the people who have to enact what is negotiated; they are the ones who have to discuss the areas of concern. In my own municipality, our chair of the police commission received a letter from the president of the association indicating that the chief was a third party and did not belong anywhere near the bargaining table, nor should his advice be taken at that time. We have some concerns about that.

Those are the major issues that we would like to address today.

Mr Hopcroft: In conclusion, we would like to welcome questions from the committee and urge upon the committee and the minister the amendments that we have put forward today.

The Acting Chair: Thank you very much. We have about 17 minutes for questions. I have seen Mr Kanter's hand, Mr Philip's and Mr Smith's.

Mr Kanter: I would like to welcome Mr Hopcroft. As you said, Mr Chairman, he is not a stranger to us here.

I would like to ask about some of his views on the membership of police services boards, because it seems we have had some quite sharply divergent views before this committee. Yesterday we heard the Police Association of Ontario, representing 17,000 officers—I presume including those in some or in most of the municipalities you represent—who seem to feel quite strongly that the majority of the members of municipal police services boards should be appointed by the province.

I am just quoting from their brief; you may not have had an opportunity to see it. "This premise, in the view of the Police Association of Ontario, is absolutely essential to the standardization of the police service and to the good government of police forces." They may have had some mention of unwarranted political interference, but my recollection of their argu-

ment is that it was important for standardization and it was important because of increasing demand by the public for better and more comprehensive police service.

Today we heard a presentation, just before you were on, in fact, by the Municipal Police Authorities. While they were careful not to take a position on the issue of whether a majority of members should be appointees of councils or the province, because they include both, they did note that the provisions of the act with respect to representation on municipal boards were unanimously agreed to by members of the Police Act revision committee, and I think that included governing authorities, chiefs of police and members of police associations.

So we do have a significant view that the current provincial system works well, and in fact there are those who say there will be a greater need to continue it in the future because of the need for uniform standards and increasing demands on policing. I am just wondering if you could comment on that view, particularly the view of practitioners, and why you have come to a different conclusion, why you feel that municipal representatives should be in the majority. Do you think there is any validity to the existing situation, where there are some representatives of both but the provincial representatives are in the majority?

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Mr Hopcroft: I certainly think there is some validity to the existing position of 51 out of the 124 authorities, where in fact they are committees of council and under municipal control.

Mr Kanter: Smaller municipalities, for the most part.

Mr Hopcroft: Mostly smaller, admittedly. I would suggest that has not posed a problem in terms of provision of police services. I would suggest as well that this bill contains a number of new provisions which AMO generally supports, in terms of powers of the minister with respect to maintaining the minimum standard of service across the province. This legislation is much stronger than the previous legislation in those terms.

I suppose the ultimate, in terms of standardization, would be to have one provincial police force that patrolled the whole province. You would have the same police service then, presumably, in Metro Toronto as you do in the far north and the eastern and southwestern parts of the province. I would suggest that would not be an appropriate solution, because in fact there are differing needs in different communities and the local influence, in terms of a local police services board, can recognize and make accommodation for those particular local circumstances. That cannot be made if there is one commission running all the police services from Toronto.

Having said that, we recognize that there has to be some uniformity in terms of maintaining standards or you are going to have weak links in the chain in terms of crime prevention and law enforcement. We, as an association, feel that having a provincial watchdog—in essence, two provincial watchdogs in the context of this legislation—is more than sufficient to ensure that those standards are maintained. In fact, there is authority in the bill for board members and in fact staff of the local police forces to be dismissed or suspended by one or the other of the two watchdog agencies that are being imposed in this legislation.

To suggest that in addition to those two watchdogs the province has to appoint the majority of the police commission, to us as municipalities, is a vote of non-confidence in terms of local municipal input and the people who have run many

municipal services that are just as essential as police services in this province.

Mr Kanter: I would like just one supplementary on that. I understand the principle and, as a former municipal councillor, I think I have some understanding of the argument. But I guess I am trying to look at the practical consequences, to see how important the question of who does the appointing is, relative to the personality or the competence or the interest of the members appointed. It is my understanding that municipally appointed members are generally members of council and that provincial appointees are generally local citizens. Sometimes they have had a connection with council, sometimes not. Would you not feel that the personality, the interest, the competence, whatever you might choose, of the members has a larger impact than who appoints them? Perhaps another way of stating the question is: You are a member of municipal council. Once people have been appointed by your council to the police commission, do they not more or less go off and do their thing in what they see as the best interests of policing the community, rather than being accountable to your council on a frequent basis?

Mr Hopcroft: That is a difficult question, I guess, in terms of any broad meaning. Certainly the expertise of the members is important. Certainly from my own experience in my own municipality, when we have sought citizen appointments to boards and commissions, we have looked at that very carefully. I really do not think the record of one level of government is any better than the other necessarily in terms of whether a provincial appointee is more qualified or better equipped to handle the duties than a municipal one. I do not think that is the issue. Clearly, in terms of some of the discussions I have had with members of the government in terms of the need for provincial appointment, the issue has related to that accountability. Accountability to us, as municipal politicians, is tremendously important.

That is not to say that we are going to be looking over their shoulders at every decision they make, but in terms of the appointment process, there is that broadly defined definition of accountability in terms of appointing the people who in fact are spending our money—and they are spending a lot of our money. In some of our regions they are spending over half the regional budget. It is tremendously important to us as municipalities to have that accountability.

Mr Philip: I wonder whether we can think this through a little further, your arguments on page 6 of your report. If the province prescribes the standards of the police services and the administration of police forces locally, and if that same Solicitor General who prescribes these standards also appoints the commission, what happens in those instances where the responsibility of the commission would be to say, "These standards which you have set, Minister, are not applicable, or not realistic, or not reasonable because of the makeup, the composition and other circumstances in this particular community"? Would a locally appointed commission not be more objective in making such an evaluation rather than someone who is reporting directly to the minister who has also set the standards they have to use?

Mr Hopcroft: I would certainly think so. If you look at all three levels of the process being appointed, or the majority certainly of one level and all the other levels being appointed by the Solicitor General or the Lieutenant Governor in Council, the deck is pretty heavily stacked.

Mr Philip: If the government is not prepared to change this, should there at least be some standards or criteria set for the choosing of the candidates to hold these posts?

Mr Hopcroft: I think in any situation where you are appointing members to a board or commission that has the importance of a police commission, one would bring a certain level of standards to the appointment. I would hesitate, though, to have them put down and regulate them to such an extreme degree that you did not have flexibility to appoint some people who might bring a very important perspective to the deliberations of the commission from time to time.

Mr Philip: Should there at least be an attempt at balancing the various interests—the interests of the police, the municipal council and the visible minorities or native peoples—if that were a local concern on that commission?

Mr Hopcroft: I think it is tremendously important. It is probably one of the most important things that commission has to deal with.

Mr Philip: Should that be in the act or in the regulations, at least as a guideline if not as a standard?

Mr Hopcroft: As I understand it, the minister will have the responsibility and in fact the duty of bringing forward some regulations to deal with some of those issues, although perhaps not all of them.

Mr Philip: My concern is that so much of this is under regulation, and we do not know what those regulations are.

My other question concerns the matter of accountability and of who pays the costs of all this. The Association of Municipalities of Ontario was very critical of the costs of the legislation which imposed on local municipalities the security of the courthouses. Is it your view that this legislation is going to be of considerable cost to local municipalities? Right now what is the figure? Is it 80% of policing that is paid out of local taxes?

Mr Hopcroft: I believe that is the average.

Mr Philip: Is it your concern that this will be one more additional cost? If so, how considerable a cost is that in your view? Or do you just not know because, like the rest of us, you do not know what the ruddy regulations are and they refuse to table them for us?

1700

Mr Hopcroft: I do not think we have done any specific projections in terms of the costs. Just looking back over the last couple of years, police budgets have increased at a tremendous rate. The concern has not so much been with the rate of increase but with the accountability in terms of the decisions that are being made. That is why it is so tremendously important to municipalities that at least the majority of those local boards be appointed locally, given that there are already in place the other two levels in terms of provincial standardization and provincial accountability and in terms of provincial safeguards.

Mr Philip: Would it be safe to say that the increase in policing costs to a municipality, up and above the rate of inflation, has for the most part in the last three or four years been attributable to decisions taken by the provincial government and not by local municipalities? I am thinking of such things as the employment health tax and other legislation which is being passed provincially but which is being paid for very severely by local municipalities and passed on through the local tax system.

Mr Hopcroft: In terms of police services specifically, there is no question that provincial actions have had an impact, but there has also been the impact that has been brought about as a result of tremendous pressures brought about by growth, urbanization of our communities and so on. The best answer I can give you is that it has been a mix, but certainly the local commission has had a great deal of discretion in terms of some of those cost increases as well, and a discretion which has not really been subject to any kind of appropriate appeal or second guess or second chance at the budget by council. It is far different from any other services which in fact are just as important and just as necessary to our society as the police.

Mr Philip: There are some 30 different items under section 133 that are matters that will be decided by regulation. Are there any of those that you are particularly concerned about and that you feel should be open to some kind of public scrutiny before the Solicitor General, behind closed doors, passes them into law through regulation rather than through an open hearing process as handled in any piece of legislation?

Mr Hopcroft: We would certainly expect that a number of the key players involved in policing services would be consulted by the minister on a number of these regulations. I am not prepared to deal with any specific ones in terms of the question right now, but we have no reason to believe the minister is not going to be consulting municipalities and the other important players in the area of police services before these regulations come forward.

In fact, as I mentioned in our presentation, our rural section, in co-operation with our other sections, is going to be looking quite carefully at the issue of who pays for police services in our smaller communities. We hope to bring forward some recommendations in that regard in the near future. We have already received assurances from the Solicitor General that his staff will be prepared to co-operate with us in those deliberations.

I do not know if our chairman of the rural section would like to add anything on that question or not.

Mrs Dougherty: I do not believe so. I think you have addressed the concerns that we have. As we work through to find a solution, we will certainly share that information so that it will be consistent.

Mr Philip: I would hope that those regulations, if you are considering them and if the minister is consulting—and I know a number of municipalities will want to do this, will also consult publicly with their constituents and with the various groups in the community in addition to the obvious consultation which no doubt will go on with the police departments, the chiefs of police and the various committees of council. I am sure that is something which a number of your municipalities would do automatically, but I hope that we would have a fairly wide-ranging dialogue so that anyone who has any concerns or changes he would like in the regulations would have an opportunity to at least input that way, since we are not having an opportunity to have any kind of public dialogue on the regulations through this process.

Mr Hopcroft: Mr Kenner has a comment he would like to make in answer to your question as well.

Mr Kenner: You mentioned increases. One of the concerns that we definitely have—and I think it is no secret to the people in the province of Ontario—is the fact that police, and firemen also, if you look at the salary increases they have

received over the last 10 or 15 years, well exceed any other municipal employees. That adds definitely to the cost, and to the cost to the municipality. That is why we are quite concerned about some of the areas that are highlighted under the labour part, especially with the arbitration process, that have given us a lot of concern.

Mr D. W. Smith: I have just a short question. It is really supplementary to what Mr Kanter was asking, and I do not know where we are going to draw the line, because the police associations certainly have a difference of opinion with the management over them, I guess. Is there any merit in even asking that the municipalities over 100,000 should be set up one way as far as the provincial appointees are concerned, and the ones under 100,000 could be more local in their appointments? Or do you see that as causing more problems?

Mr Hopcroft: That is certainly better than all or nothing. But we really do not see any reason to differentiate, at this point, between smaller and larger municipalities. We think that all municipalities have the wherewithal, the expertise and the capability to make those appointments, and we would urge that position strongly on this committee.

Mr D. W. Smith: There are certainly some strong opinions, as I have listened to the presentations here, between the police associations and the police commissions that may be over them. It is going to be tough to come up with the right answers.

Mr Hopcroft: I do not think it is any surprise that sometimes management and those who are out on the streets sometimes have disagreements over governance. But it is something that has worked well in many of the major urban centres across this country, the centres that I mentioned earlier in my presentation, and we see no reason why that should not work in Ontario. We think we have just as qualified people in our local governments here as in those other municipalities, and we see no reason why we should be treated as second-class citizens in Ontario.

Hon Mr Offer: First, let me thank you for your presentation. I want to speak to one particular recommendation: your recommendation 9 dealing with section 117 and its deletion from Bill 107. I have taken a look at your submission. You have also spoken about if there is to be a section 117, that you would like a greater flexibility with respect to more than two bargaining units, that it should rest with an outside agency such as the Solicitor General or the civilian commission on police services.

I just want to inform you that apart from some of the other amendments which I have already indicated to you, we are also moving an amendment to section 117 which will indicate that if there are to be more than two categories, that can only take place if a commission has approved the creation of the categories. So we have come to grips, if not with your exact recommendation, certainly with your alternative.

The Acting Chair: Such sensitivity. Thank you very much for your presentation. It was obviously carefully listened to and well received.

Mr Hopcroft: Thank you very much, Mr Chairman. We look forward to hearing of further amendments as the legislation proceeds.

Mr Philip: So where do you stand on Sunday shopping?

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The Acting Chair: Next we have the Ontario Senior Officers' Police Association, whose very extensive and thorough brief is in front of members of the committee. We have the president of the association, Robert Lewis. Mr Lewis, welcome. We have approximately half an hour. Perhaps you could lead us through your presentation and then entertain some questions.

ONTARIO SENIOR OFFICERS' POLICE ASSOCIATION

Staff Inspector Lewis: I am Robert Lewis. I am a staff inspector with the Peterborough police force. I have been a member of the police services for some 37 years, and I have also been a senior officer for some 17 of those 37 years. I am currently the president of the Ontario Senior Officers' Police Association, which represents most of the major municipalities in the province.

The objective of this presentation is to bring to the attention of the Legislative Assembly of Ontario the observations, concerns and comments of the senior police officers of the province related to the proposed Police Services Act, 1989. The main objective of the Ontario Senior Officers' Police Association is to uphold the honour of the police profession, to elevate the standards of police services and to encourage a cordial and co-operative intercourse among the members of the association and police personnel in general.

The proposed Bill 107 is obviously a long-awaited and welcome piece of legislation, and we as senior managers of the police profession throughout the province anxiously await implementation. Many of the duties and responsibilities outlined in the proposed legislation will become those of senior managers. We will be the catalyst between the legislation, the chiefs of police, other members of forces and the public to ensure the provisions and the objectives of the proposed legislation are met. Having made these statements, the senior police officers in this province wish to ensure that their position is in perspective related to the proposed legislation.

An energetic review of the proposed legislation has been undertaken by the Ontario Senior Officers' Police Association over several months, with province-wide participation. The executive has diligently researched related data and sought opinions in preparation for this submission and is prepared to discuss our views further if necessary for clarification. We thank the standing committee on administration of justice for this opportunity to present this submission, which relates to various sections of the proposed legislation and outlines the observations of the senior police officers of the province.

First off, in dealing with the composition of the bill, it would appear there is a necessity to have a substantive order and index to the legislation. There have been accumulated efforts to organize the various parts of the bill. But there is no main index, particularly as it relates to definitions. It would also seem proper that the neutral gender be referred to throughout the bill rather than the male and female pronouns "he" or "she."

The discipline code is referred to throughout the bill, and it should be outlined in detail in order that it may be examined and discussed. There is no need for the discipline code to be a regulation—paragraphs 133(1)19 and 133(1)23—to be changed by the philosophy of the existing government. The same penalties are provided for and referred to under subsections 61(1) and 96(1). There is duplicity in this regard, which could be eliminated.

Section 133 outlines some 30 regulations that may be made by the Lieutenant Governor in Council, but there is no content to examine or on which to comment.

Dealing with the various parts of the bill, we have broken them down into different sections.

On the declaration of principles in section 1, the Ontario Senior Officers' Police Association is in full support of the six principles outlined under section 1 relating to the provision of police services in the province, which are in keeping with the objectives of the association.

Under section 2, regarding definitions, as I previously stated, we suggest there is a need to properly index all definitions in the bill to make its composition more orderly. Has the committee considered the need to define "peace officer," which could include special constables, auxiliary constables and bylaw enforcement officers?

Dealing with part I, the responsibilities for police services, an overview of part I would indicate that the Solicitor General plans to intervene actively, through a constant monitoring process, to ensure there is compliance with the legislation and that adequate and effective standards are maintained. We support this concept and agree that high standards of government and management of police forces should be maintained. The requirement to meet these standards must be applied with some discretion to smaller forces and their relative capability of meeting the standard.

Part I, paragraph 4 of section 5, dealing with municipalities, reads, "With the commission's approval, the municipality may adopt a different method of providing police services." The Ontario Senior Officers' Police Association has some difficulty with this particular section. We feel "different method" should be clearly defined, with guidelines in place. Does this mean that private security firms would be hired, and would personnel of such firms be defined as peace officers? If such is the case, then other issues such as training and equipment should be identified and considered. Or does this mean under subsections 15(1) and (2) that a municipality may appoint bylaw enforcement officers?

Dealing with subsection 9(1), failure to provide police services, it reads, "If the commission finds that a municipality to which subsection 4(1) applies is not providing police services, it may request that the commissioner have the Ontario Provincial Police give assistance." Our association would like to have some clarification as to how a determination is made that the municipality is not providing police services.

Subsection 9(4) states that in any area for which a municipality is required to provide police services, the crown attorney may request that the commissioner have the OPP give assistance. Our association suggests there is definite potential for conflict between the crown's office and the police. We feel that the chief of the municipal force should be consulted by the crown's office and the ultimate criteria for the crown to request OPP assistance should be in writing to the Attorney General through the Solicitor General and back through the municipal police services board.

Subsection 9(6) deals with the request of a chief of police in an emergency. It reads, "A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the commissioner have the Ontario Provincial Police give assistance." Our association suggests that the word "emergency" should be defined.

Subsection 9(9) is the cost of services of the OPP. What are the standards of such costs and would they be reciprocal?

Subsection 10(6) deals with the role of the board. The reference to "senior officer" in this section is not correct according to proper definition. Senior officer under the legislation as it exists means an officer of the rank of inspector or higher, or a civilian employee employed in a supervisory or confidential capacity, but does not include a deputy chief or chief of police. We suggest that the reference in this section should be "officer in charge" of the OPP within the municipality, not "senior officer."

Dealing with part II, the Ontario Civilian Commission on Police Services and the powers and duties of the commission, clause 22(1)(c), conducting investigations under section 25, and clause 22(1)(d), conducting inquiries under section 26, it is really unclear who will be carrying out the investigations under sections 25 and 26.

Subsection 23(11) deals with the grounds for appeal. The appeal process appears to be very ambiguous and unclear as to meaning. Our association suggests clarification is required under this section.

As to subsection 24(1), emergency interim orders, our association recognizes the tremendous power legislated under this section and the necessity of holding a hearing as soon as possible. We again suggest that the definition of "emergency" should be included for further clarification.

In part III, municipal police services boards, subsection 28(1), the chair, reads, "The Lieutenant Governor in Council shall designate a member of each board to be its chair." The association supports the position that members of each police services board elect one of its members to be its chair.

Section 37 deals with the power to summons witnesses, and the association suggests some clarification is required under this section. Is there a need to have a properly formed hearing or inquiry before the board may summons witnesses, or may witnesses be summonsed to a regular board meeting?

Part IV deals with police officers, ensuring the police force provides community-oriented police services. The association suggests this section also requires clarification or interpretation of "community-oriented police services." For example, are programs like Neighbourhood Watch, Block Parents, etc, sufficient, or does the term mean storefront police stations, or does it mean we will be directed to provide different police enforcement policies for each unique ethnic community in major cities? This term means different things to different people, and we wonder what it means for legislators.

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Subsection 41(2) says, "The chief of police reports to the board and shall obey its lawful orders and directions." The association is concerned with the power that is placed in the hands of perhaps untrained and possibly unqualified civilians. There would appear to be potential for radical administrative and operational changes from board to board, which could cause some problems.

The association takes the position that the power of the police services board be restricted to government and overall administrative matters, and to ensure continuity, operational matters should be the responsibility of the chief.

Subsection 44(1) deals with the probationary period for municipal police officers. The association recommends that probationary periods for recruits should be a minimum of 18 months.

Subsection 47(1) is about the accommodation of disabled officers. The association has great difficulty with this section, as we are torn between the need to protect all members of the

force who may become disabled and the need by management to find areas within the force where these members might be placed.

In times of increasing demands for police service and shrinking budgets, there is a fear that field operations services are likely to suffer as a result of this section. Careful consideration must be given to its potential cost ramifications. The association also has difficulty with the term "undue hardship" in terms of definition and how it would be proved if the matter of discharge was appealed.

Part V deals with disciplinary hearings and section 56 deals with misconduct: "A police officer is guilty of misconduct if he or she, (a) commits an offence described in a prescribed code of conduct...."

The association suggests the prescribed code of offences be part of the act, as opposed to a regulation. Changes in government philosophies and current issues substantiate the need for the code of offences to be part of the act. When this legislation is passed, it would then provide a proper instrument for implementation.

Many forces have joint agreements with associations prescribing informal discipline procedures, and there is concern that the discipline code may have some effect on the informal application of minor penalties.

Again in regard to section 56, misconduct, the association makes the observation that disciplinary procedures will be directed only to police officers. The trend in modern policing is to civilianize, and most forces have collective agreements with civilian staff. The association recommends serious consideration be extended to include civilian members of the services in disciplinary procedures.

Subsection 58(2), chief to investigate conduct. "The chief of police may investigate the matter by means of a hearing under section 60 or may investigate it without holding a hearing." The association suggests some clarification is required as to the classification of the type of hearing to be held under section 60. For example, would it be a formal or an informal hearing?

Clause 61(1)(c) deals with demotion, which is also dealt with under clause 96(1)(c), penalties. The association recommends that demotion should be limited to one rank below an officer's current rank and the period of demotion should be clearly stated, with requalification by examination and other qualifications before reinstatement.

Subsection 61(3) states that if misconduct is proved at a hearing "on clear and convincing evidence," the chief may, and it goes on. The association suggests the phrase "clear and convincing evidence" be clarified and defined. What rules of evidence apply to reach a conclusion of clear and convincing evidence?

Subsection 72(2) is the definition of a police officer. The association has great concern with this definition. We suggest it should clearly spell out the fact that the police officer is in the lawful performance of his duty or, while off duty, identifies himself as a police officer. There is no private life for a police officer under this definition, and we suggest that an off-duty police officer also has the right to privacy.

Part VI, subsection 76(1), deals with complaints by the public. The association strongly recommends that all complaints should be in writing and be signed by the complainant.

Clause 76(4)(a) deals with the preservation of evidence. If a complaint is made to another force, what is meant by "reasonable steps to ensure that evidence that might otherwise be lost is secured immediately"? For example, the issuance and

execution of a search warrant might be one of the procedures required to be implemented to obtain or preserve evidence.

Subsection 76(7) deals with a complaint made more than six months after the incident. The association takes a strong position that a complaint should not be taken that is reported six months after the fact unless cause is shown and the chief of police is in agreement.

Subsection 77(1) deals with a complaint by the commissioner. The association suggests there is a need for clarification of the words "exceptional circumstances" in this section. The term is too global in context and requires some definition. The association also questions the need for the intervention of the Attorney General under this section and feels that circumstances should be more explicit.

Section 80 is on the classification of a complaint. The association has some difficulty with this section as it dictates that all complaints, regardless of their nature, must be reported to the commissioner. It would appear there is no latitude or flexibility built in for dealing with minor complaints, for example, complaints on parking tickets or other minor bylaw offences.

Section 85 is on a complaint reinstituted. The act should provide that once a decision has been made to discontinue the investigation or the complaint is properly withdrawn, the matter is at an end. The ability of the chief to commence or continue the investigation could lead to an abuse of process.

Subsection 86(1) is on the investigation of a complaint, and again the association has great concern with the term "prescribed procedures." Will these become regulations and will they be applied in the same fashion by bureau investigators and those of the public complaints commissioner's office?

Subsection 87(2) is on the effect of a court proceeding commenced by a complainant. The association suggests clarification of the term "court proceeding" in this section. Does the term include proceedings in criminal, civil and bylaw matters, or is the reference only to criminal proceedings?

Subsection 87(5) is on an investigation by the commissioner and the effect on the bureau. If a civil litigation has been proceeded with against the service, the chief must notify the commissioner and request an investigation. The chief is responsible to defend the action of his service in a civil litigation, and the association feels he should be able to conduct a parallel investigation to ensure in his own mind that all areas of the complaint are investigated. The association is of the opinion that the chief and the commissioner should be required to provide each other with any information received.

Subsection 89(3) is on a decision by a chief of police. The association takes a strong position on this issue. When an officer is found not guilty of alleged misconduct, the disposition should include exoneration and the officer's file should not be allowed to contain dispositions of no-action complaints. We suggest there should be some consistency with subsection 61(6), which deals with documenting dispositions on the employment record of police officers.

Subsection 100(1) is on recommendations concerning police practices or procedures. The association strongly recommends that all associations be included in the definition in clause 100(1)(d), including the Ontario Association of Chiefs of Police, the Ontario Senior Officers' Police Association, the Police Association of Ontario and the Ontario Provincial Police Association, as well as local associations.

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Subsection 100(2) is on the comments re recommendations. The senior officers' associations, as managers, should have the benefit of contributing their comments to the Attorney General, the Solicitor General and the commissioner.

Subsection 102(3) is on the boards of inquiry and panels for the boards of inquiry. The association strongly recommends that it be included as an association to be consulted regarding referrals to boards of inquiry.

Part VII deals with the special investigations. Under subsection 112(4), the association takes strong issue with the use of the phrase "have resulted from criminal offences committed by police officers." This is a prejudgement that serious injury or death resulted from criminal actions when quite clearly the serious injury or death may have been caused by some other circumstances which may have resulted from the actions of the police officer.

Part VIII deals with labour relations. Under section 113 is the definition of "senior officer." The Ontario Senior Officers' Police Association and senior officers in the province have struggled with this definition for a number of years, particularly as it relates to civilian employees.

We suggest the definition would be more concise and appropriate if it were defined as follows: "'Senior officer' means a police officer of the rank of inspector or higher or a civilian employed in a managerial or executive capacity." The emphasis should clearly indicate that the civilian member is a civilian employed in a managerial or executive capacity.

Subsection 118(4) deals with the filing of an agreement and it states, "The board shall promptly file a copy of any agreement with the arbitration commission." The association suggests that access to agreements by both management and associations would assist considerably in contract negotiations, and there is a need in this section to clarify accessibility.

Subsection 121(4) is on representations by council. The act requires that members of a council be appointed to a board. It may be inferred that the purpose of the appointment is to ensure that the interests of the municipality are addressed. The ability of council to make further recommendations at arbitration hearings would therefore be redundant, as the board would have access through that appointment to all information that would be put forth by council.

In subsection 121(5), we suggest that the wording "shall take into account the interest and welfare of the community" is too strong and suggest that the word "shall" be changed to "may."

Clause 129(2)(b) is the arbitration commission composition and appointments. Again, the association strongly recommends that the terminology "associations" be clarified and properly identified. This definition would then encompass provincial associations such as the OACP, the PAO, the OSOPA and the OPPA, as well as local municipal associations.

As the parent body of the senior officers of this province, the Ontario Senior Officers' Police Association would actively pursue participation and involvement in the composition of the arbitration commission.

Part IX deals with regulations and miscellaneous. Subsection 130(2) deals with property in possession of a police force. "The chief of police may cause the property to be sold and use the proceeds for any purpose" considered in the public interest. The association suggests that the responsibility for the disposition of property should remain with the police services board, particularly as it relates to the use of proceeds and for what

purpose. Generally, a purpose would be identified by a resolution of the police services board.

Subsection 130(4) deals with non-perishable property. The legislation has removed the 30-day rule relating to motor vehicles and bicycles and has imposed a three-month rule. The storage of found and abandoned bicycles for lengthy periods of time will have an extreme impact on storage capabilities for most forces. It is recommended that the 30-day rule be reinstated in the legislation to cover motor vehicles and bicycles and to alleviate storage and inventory control problems.

Section 133 again deals with the regulations, and through the regulations the Solicitor General and cabinet will have far-reaching power and almost total control of policing. Governments and philosophies change and resultant changes in standards therefore developed. These changes in standards can impose on municipalities and forces additional costs that may not be capable of being met. Therefore, before regulations are imposed, there should be some pre-assessment of costs. A recent example imposed on municipal police forces is the requirement to provide court security.

Section 9 governs the qualification for the appointment of persons to police forces. Already, section 43 of the proposed legislation relates to the criteria for hiring. Why should there be a regulation for the same purpose? Police services must be allowed to establish stricter requirements if they wish.

Sections 29 and 30 are the non-specific authorities granted in these two sections which give rise to some concerns that many regulations may be made, circumventing the parliamentary process. The authority there is far too general in nature.

Mr Solicitor General, Mr Chairman, members of the committee, on behalf of the association I thank you for the opportunity of presenting our views on this very important and long-overdue bill. We are very appreciative that the provincial government has seen fit to revise the Police Act, and from our perspective we have brought to your attention some concerns. We trust our recommendations and observations will be taken into account when enacting the legislation, which we hope will last for many years. Thank you very much.

The Acting Chair: Thank you very much for a very methodical presentation, Mr Lewis. Mr Offer has a few comments he wishes to make.

Hon Mr Offer: Thank you for your submission. Just as a point, we have moved a number of amendments, some of which have addressed the concerns that you have brought up today. The section dealing with the probationary period has been amended in accordance with your recommendation, as well as the election of the chair. On your concerns under section 130, the property in possession of police, the disposition is now with the local police board. Lastly, the one-month rule dealing with the bicycles and autos has been reinstated.

Staff Inspector Lewis: I am very pleased to hear our perspective has brought some of those things into effect.

The Acting Chair: Did you have a question, Mr Philip? We have approximately one minute left.

Mr Philip: One minute left? Okay. Let me ask just one question on your request concerning the definition of a police officer. You say: "The association has great concern with this definition. We suggest it should clearly spell out the fact that the police officer is in the 'lawful performance of his duty' or while off duty identifies himself as a police officer."

In the case of a senior police officer, do you not feel that any action he performs in a community, whether he is identified

as a police officer or not, as long as that is a public action is identified with the uniform and with the police and therefore should be a matter under which perhaps discipline should be taken? For example, say a senior police officer, while at a Rotary Club barbeque, publicly made racist remarks. I think I would want to remove such an officer from his office, even though he may have made those prejudiced and racial remarks while off duty and not in his capacity as a police officer but as a member of the community. I wonder how you deal with that problem, if you were to amend the legislation the way that you suggested.

Staff Inspector Lewis: I think what the association had in mind there was the officer who is on vacation at his cottage, where his identity is not known, and a dispute arises over a line fence or something like that.

Mr Philip: And he punches somebody out.

Staff Inspector Lewis: And something develops as a result of that. If he is not known as a police officer, generally nothing happens. They resolve it among themselves or there is a civil action or whatever. But with this new procedure, if he is known as a police officer, you can go to the complaints commission.

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Mr Philip: I guess I just worry that if we put in the amendment you asked for, we may not catch the kind of incident that I have just given you as an example. Maybe it is something that has to be worked on in the wording. I am sure you would accept that a police officer in his own community, who is known as a police officer and who participates in an act which, if he were wearing a uniform, would be completely unacceptable, should be open to the same discipline as if he did not have that uniform on.

Staff Inspector Lewis: Precisely.

CONCERNED CITIZENS ET AL

The Acting Chair: The next group we have is in fact 12 groups which have banded together to make a presentation before the committee. The brief is in front of the committee. If you look at your agenda, you will note that one of the groups is the Coalition of Visible Minority Women, which was scheduled to appear at 8:30 tonight and, I understand, is appearing with this group instead. I understand we have with us Charles Roach, lawyer, and Margaret Gittens, member of the executive committee of the Coalition of Visible Minority Women.

Mr Roach: Romain Pitt, also a lawyer, is here as well, and Vivene Younger, one of the members of our constituent groups. We have some others, but we may not introduce them all. Ed Clarke is from the Toronto Negro Veterans' Association and the Universal African Improvement Association.

The Acting Chair: Thank you. I appreciate your having gotten together and put together this brief. Perhaps you can lead us through the brief and then, if you leave some time, we can entertain questions.

Mr Roach: Mr Pitt is going to read the brief. I might just tell you that the brief came about as a result of several meetings with members of all the various constituencies here. We have met on four separate occasions to consider what we should put in here, and we have boiled this down to what you see now.

Mr Pitt: Thank you for the opportunity to present our views to the committee. Our comments are much more of a

general nature than those you received immediately prior to this presentation. None the less, we think they go to the fundamental issues of the bill.

First of all, the declaration of principles. We think that in the declaration of principles should be included the need for civilian oversight of policing and the need for the police to be accountable to the people of the community. We recommend that a civilian complaints investigative board be established, comprised of persons representative of the public; that is to say, much more so than the current boards are today. There should be an executive director of that board to be referred to as the independent civilian complaints investigator. All complaints by civilians against police officers should be investigated by the office of the independent civilian complaints investigator.

Complaints about police conduct should be classified into two classes: (a) those with allegations involving criminal behaviour; and (b) those that are purely in the nature of improper professional practices.

All allegations of criminal offences by police officers should be investigated by the independent civilian complaints investigator. No distinction should be made between criminal acts causing death or serious injury, and other criminal acts. Where there is sufficient evidence, such complaints should be prosecuted in the criminal courts.

Complaints about police conduct that are purely in the nature of improper professional conduct may be resolved by the police chief, unless they emanate from civilians.

The independent civilian complaints investigator should have the power of a peace officer.

Separate adjudicative bodies must be set up to deal with civilian complaints. These bodies will be independent of the investigator, since they would be providing a judicial function.

These adjudicative bodies should have authority to impose penalties. We disagree with the proposal of Bill 107 that the chief have any input in deciding penalties.

In hearings of adjudicative bodies, police officers should be compellable witnesses. It should be a condition of the employment of officers that they must testify at such hearings. If an officer chooses to rely on his charter rights against self-incrimination, he or she should be free to resign from office. Thereafter, he or she should not be a compellable witness in such hearings.

The independent civilian complaints investigator—and this is very important—may initiate a complaint about police conduct or services without a specific complaint from a member of the public, and there should be a relatively short time period during which investigations and proceedings are commenced and completed.

The composition of municipal police services boards: We strongly recommend that these boards should be under the control of local regions or municipalities, which should have complete control over appointments to such boards. In particular, we recommend that municipal police services boards should not be located in police stations but should have separate quarters, wholly apart and separate from police stations. Its staff should not include police officers and should be totally civilian in nature.

We recommend, also, some changes in the criteria for hiring police officers. We believe that the age of 18 is too young, given the nature of the occupation. We recommend that the attainment of the age of 21 years, and three years' community service organization experience, should be one of the criteria for hiring.

We also recommend that the education and training of police officers should be conducted in a community college setting, as opposed to a police college.

Recently, in Metropolitan Toronto and in Peel, police forces have taken job action in reaction to certain events. When police officers are charged with criminal offences for injuring civilians, some police officers have resorted to work slow-downs, refusal to issue parking tickets, refusal to leave the police station at the start of a shift and other withdrawals of services—the wearing of badges bearing political statements, the wearing of baseball caps, etc. We suggest that the legislation and the regulations should contain a code of conduct curtailing such activity.

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We support the section prohibiting political activity and we suggest that the regulations made under the act should prohibit police officers from engaging in any organized manner for the election or defeat of particular candidates for public office.

The question of reporting when firearms are drawn: We recommend that there should be a record made by an officer whenever a firearm is used, pointed or taken from its holster.

Firearms should not be issued except for special duties, where their possession is clearly indicated. We submit that traffic officers do not need to carry service revolvers.

We know that there are jurisdictions in Ontario—Thunder Bay, Halton and Waterloo region—where there are policies requiring police officers to document when a weapon is used. We also know that in Charleston, South Carolina, and in Madison, Wisconsin, in the United States, the same policies are in effect, and that US forces have advised that it takes no more than three minutes to complete a report; it is not inconvenient; it is good public relations, and definitely not found to be a detriment to drawing a weapon in appropriate circumstances.

On the question of the use of force, we recommend that the government of Ontario petition the government of Canada to amend subsection 25(4) of the Criminal Code to restrict its applicability to situations in which the fleeing offender poses an immediate threat of death to police officers or others. This, I think, was a recommendation made by the Lewis task force. We strongly support it.

Finally, we recommend that the regulations to the statute be drafted properly. We should like to have the opportunity of making substantive input. The regulations, we submit, should include definitions of and sanctions for racially prejudiced behaviour. The latter is also a recommendation of the Lewis task force.

These are our basic submissions.

The Acting Chair: Thank you very much. The committee has about 20 minutes, and Mr Curling and Mr Philip have questions.

Mr Curling: I want to thank the committee for coming forward. I know how difficult it is, and most of those who are presenting find it extremely difficult that the time that is given, half an hour, is not adequate. Again, there are so many presentations, and considering the time element that we do have for this bill, which I personally would like to see enacted and passed by the end of this month in the House, it is of extreme importance to me and, I think, of importance to the province.

I know, too, that there are many, many issues that you would like to put forward, and I just want to target in on a few and ask you if you could explain a bit more for me. In the section on composition of municipal police services boards on

page 3, you stated that the boards should be under the control of the local regions and the municipalities. We have heard discussions on both sides, whether it should be provincial control or municipal control. Why do you say they should have complete control over appointments to the board?

Mr Pitt: It is interesting that you ask that, Mr Curling. We think that is probably the least important, the one we are least concerned about. However, I think Mr Roach would probably comment.

Mr Roach: Yes. I might tell you that our main concern is the civilian investigation of allegations. In fact, most of us have been, in an organized manner, petitioning, demonstrating and so on for many, many, many years. These other matters went in there because we are a coalition, and had it not been for some others, we would just deal with that one matter and nothing else. But it was felt that if local municipalities controlled police commissions, then it would be a more democratic way of dealing with matters. We find that our experience in the Metropolitan Toronto area is that the present body is not accessible in terms of understanding, not in terms of being able to appear before them. We feel that if they were elected officials or if they had more responsibility to the elected councillors, then we might be able to have some more sensitivity there. It is a question of self-determination and of the people within a particular region to control their policing.

Mr Curling: Mr Roach, on page 2 you did ask about the setup of a separate, adjudicative body. It would be set up to deal with the civilian complaints. As a matter of fact, I was not prioritizing about which is more serious. I just pick them as I go.

Who should appoint these bodies; the province or the municipalities?

Mr Roach: With respect to that we had some debate. It is felt that the present system, where you have police officers, the municipality and the provincial government having input, is appropriate. At the present time we have a kind of system which I know the police have not been honouring, but they have an opportunity to report certain names, the municipality has an opportunity to report certain names and so does the provincial government. That is satisfactory.

Mr Curling: So you say that the provincial government would put in their names and you say independent bodies outside would put names forward?

Mr Roach: Not independent bodies. Are we talking about police associations? Are we talking about Metropolitan Toronto? Is this a case of Metropolitan Toronto or the various municipalities or regions?

Mr Pitt: The objective, Mr Curling, is to have total civilian control. We want the civilians to control the process of receiving, assessing, investigating and adjudicating the complaint. We are very flexible on the question of how they are appointed. What we want is not only that justice be seen to be done, we want civilians to control the process from the investigative stage through to its conclusion.

Mr Curling: My last question is in respect to what you said, I think, in here. You said traffic cops should not carry firearms.

Mr Clarke: We think the problems that society has are handled by the emergency task force. I think it has quite a concise, clear record over the years. We have the traffic police

carry firearms or truncheons when, in other countries, it is really not necessary. England is a good example where the firearms are used only in special cases, in emergency situations. Why is it that if we model our system after the English and the Americans, we have to have it where the policeman is loaded down with weapons instead of excessive training? I would rather err on the side of excessive training for our policemen in how to handle traffic situations and crowd control without using the truncheons, pistols, rifles or anything else that would do harm.

Mr Curling: I am not aware of any statistic, and maybe you do have it, showing that officers carrying out traffic duties have used their guns. I just wondered if while they are on traffic duty they are called to do other duties, say, an emergency, but they are not equipped—

Mr Clarke: I think we have an emergency today up there at Wellesley Street and Yonge Street. They have several streets blocked off. They have the emergency task force there. Why would the traffic officers need guns?

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Mr Philip: Mr Roach, or perhaps someone else may wish to comment, is it safe to say that the complaints contained in this are the same complaints that you had as the chief complaints to the Metro police complaints bill in 1977; namely, the lack of independence of the investigative process? Were those the same complaints that indeed the Liberals had in opposition but have changed their position on now that they are in government and are enacting the same faults as the Metro police complaints bill?

Mr Roach: Let's just deal with the first part of the question. Yes, it is substantially the same.

Mr Clarke: It goes back as far as I can remember, back even in the late 1930s, and it has been continual. It is not just our community that has problems with the police. It is obvious that the esteemed legislators here, who are elected by the general public, have had problems with the police. Otherwise, why is it that the Police Act has not been overhauled in so many years?

Why is it that the police can play in politics? You know we have certain rules in the existing legislation that are not being handled, and who do we blame? Do we blame the commission or do we blame the Solicitor General and the Attorney General for not carrying out their duties?

Mr Philip: I have a further question. With large numbers of not only the visible minority community but indeed of people who may come from Latin America, where the police are people to be very much feared—I know Mr Clarke is familiar with the area that I represent in the Legislature—or even some immigrants who may not be visible minorities but have come from South Africa and other totalitarian sorts of regimes, is it your experience that these people will not file complaints under the present Metro police complaints system because of the initial investigation being done by a police officer? Has that been your experience with the present act?

Mr Clarke: It is still our experience. I have talked to quite a few people and groups over the last several months and particularly over the last 10 days. They come from all nationalities and they say, "We don't think it is worth while even bothering to go and complain, because who is paying any attention?"

The system seems to be adopting the attitude, regardless of which government is in power: "Hey, there's no problem out there. After all, we have the praetorian guard." I think Caesar said the same thing when Brutus decided to get rid of him.

I think maybe that is what the public has to look at. Maybe if the system cannot be changed by those people we elect, it is time that the citizens started doing what is happening in eastern Europe: removing the whole charade and getting right down to serious cases.

Mr Philip: Recommendation 12, I think, is one of your most important recommendations. If I go to the human rights commission, I notice that that ombudsman has the right to initiate an investigation on her own initiative. The Ombudsman of Ontario, for the most—I should not call it insignificant, because any complaint is significant, but certainly for complaints that might be less significant than the kind that would come under this act—can initiate his or her own investigation, or indeed if that Ombudsman notices a pattern he or she can initiate an investigation without having a specific complaint.

Alan Borovoy, in his presentation with Dr Dan Hill, said the failure to provide for an independent police complaints commissioner to initiate complaints on his own hook is a major problem. Do you see any rationale in having two of the other ombudsmen, namely, the Ombudsman of Ontario and the human rights commissioner, having the power to initiate their own investigations on their own initiative under their acts, the same way that the Provincial Auditor can on behalf of the taxpayers on his own initiative, and does regularly, but not having this Ombudsman have that kind of power?

Mr Pitt: No. That is why we regard it as one of the most significant aspects of our recommendation.

Mr Roach: Another reason why it is so important is that there are many cases where civilians do not come forward where there is wrongdoing within the force. I tell you, everything that we have here is backed up by a case of practical experience. We know, for example, that police officers sometimes commit crimes and no one knows about those crimes except the police officers and other police officers themselves, such as destruction of evidence.

We have a very special case going on right here now in Toronto. At high levels we have obstruction of presentation of cases to the courts. We have situations where police officers just resign and cover up a whole lot of wrongdoing that has taken place. We know that many police chiefs, in an effort to make their force look very good, do not prosecute certain kinds of cases. There may be, for example, the sexual assault of a female police officer or something of that nature.

Therefore, whenever an independent civilian investigator would hear about such a thing, on that person's own motion he may do things like getting into the investigation.

We hear from certain police commissions or boards that, "No one wanted to proceed with the matter in cases of sexual assault, so we would just let the police officer resign," and so on. That has to stop. That can only stop if we have persons either coming forward and making complaints or the independent civilian complaints investigator going in and investigating.

Mr Philip: I think we would be quite surprised at the number of audits that either our Provincial Auditor or the Auditor General of Canada does as a result of whistle-blowers who provide information on a confidential basis but cannot provide it publicly for reasons that they will lose their jobs, they will be

identified, they would be open to harassment. It strikes me that what you are saying is that if the independent civilian police investigator cannot follow up on some of those leads on his own initiative, then justice will not be very well served and indeed a lot of abuse may simply go by the wayside.

Your suggestion about community college training of police officers intrigues me. Do you have experience with any other jurisdictions where this is working very effectively that you could recommend that the committee look at as possibly a model?

Mr Roach: In some colleges right here in this province you have police courses, for example, at Durham College.

Mr Philip: And one in Thunder Bay.

Mr Clarke: You have courses there that you can take on law and criminal law and security. There are quite a few universities across the country.

But in the United States, I was going to refer to, for example, the situation in Buffalo about 12 or 15 years ago, where the policemen of Afro-American descent decided that because of the way the police were operating and the inability of the civilian electors to police the act, they needed to form their own police association. They started sending their fellows down to Durham College to take training on how to be better policemen and how to handle police matters and so forth.

I think that here there is very little liaison between the universities in this country and the police forces and the Attorneys General and the Solicitors General in each province. It may be an area that the Solicitor General and his staff could look into in preparing what the criteria are for future police officers.

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Mr Philip: It just strikes me that we have moved with other professionals, directly management-training them in the case of nurses and in the case of a number of other professionals, and moved them into the community colleges. One of the things that has done is that it has given a certain flexibility based on the community, based on the college, and it might well be something that should be looked at.

The other question was that the Canadian Civil Liberties Association has suggested there should be the possibility of independent audits. I can think, say, of the case in the Maritimes of a young man who spent so much time in jail and of the cases of child abuse at certain public institutions. Would independent audits help, in your opinion, to reduce that kind of problem where people with very powerful interests are not adequately investigated by the police for whatever reason and therefore are not brought to justice?

Mr Pitt: Very definitely.

Mr D. W. Smith: I think maybe my question has been asked a bit, but it is on page 2. In the last paragraph it says, "Complaints about police conduct that are purely in the nature of improper professional conduct may be resolved by the police chief unless they emanate from civilians." Would there be any investigation if there was not a civilian complaint? Is it the police within their own brotherhood who complain about one another? Is this where you are getting a complaint here? Does that happen very often?

Mr Roach: It does not happen very often, but we know about a famous case, which was the front page banner of the Toronto Star in April, the Gordon Junger case. That was one

case where there was no complaint as such to any person on the outside. But as a result of what went on in that particular case, an inquiry by the Ontario Police Commission has been called.

Sometimes you see these cases right in the newspapers. It comes right out. Nobody is complaining. This is in the newspapers. That should be enough to tip an investigator off, "We should have a look at this." So it does happen that police officers complain about other police officers, but they do it in such a way that they just leak it to the press.

One senior police officer who was on leave contacted some of his colleagues in the RCMP and another regional municipal police force about a friend of his who was charged with offences and so on. We would never have heard about that unless somebody had leaked it. It was leaked to the newspapers and then it came right out. We do know that there are complaints. There could be a good number of complaints that civilians know nothing about until it is leaked by police officers.

Mr D. W. Smith: I will not take up any more time today. I see we are running out of time.

Mr Kanter: Just one question in view of the time: The brief speaks about dividing complaints about police conduct into two classes, one class being that of allegations of criminal offences. I think the bill recognizes that division. It sets up a special investigations unit. It says it should be headed by a civilian director with civilian staff, or at least people who are not currently police officers. It says the civilian director can himself or herself initiate investigations.

To my knowledge this is a new provision in Ontario legislation. Would you not feel this is a step in the right direction? While you may not agree with details or you may not think it goes far enough, do you feel that the establishment of a special investigations unit headed and staffed by civilians with the power to initiate investigations is a step in the right direction?

Mr Roach: No, it is a step in the wrong direction, because the right direction would be to not distinguish between those kinds of what they call special investigations and other kinds of investigations. By setting up a separate force, you give someone the discretion to say: "An independent civilian complaints commissioner should not investigate that. Let it be done by the Solicitor General."

In fact we do not think the Solicitor General should have anything to do with this. It should not even be under his jurisdiction. It should really be vested in this civilian complaints investigative board or commission, or investigative whatever we call it. It is a step that we will have to continue fighting against, if you do not correct this misguided idea that you will set up a force within the Ministry of the Solicitor General to look at very special cases. In fact we feel that a lot of our efforts, organized efforts, over the last 12 years will not come to fruition if you go in that direction.

Mr Kanter: I am really not very clear why you think it is a step in the wrong direction, aside from the fact that this special investigations unit would be accountable to the Solicitor General, and through him to the Legislature, rather perhaps then being accountable to the public complaints commissioner or some other person.

Mr Roach: Let me say it more clearly. In the present bill it says "where there are offences involving serious injury or death." What about something like a sexual assault? What about something like a kidnapping? What about a whole number of things; pointing a firearm at someone? Are these serious

injuries? Who makes the determination as to whether it is serious or not serious?

We say there should not be two separate investigative boards. Put it all under the civilian complaints investigative commissioner or the public complaints commissioner or whatever you call the person. Put it all under, and there would be no distinction. Then there would be less chance for discretion to come in as to what is serious and what is not serious, what we will take over and what we will not take over. So long as you have that kind of determination, that kind of judgement call by someone presumably from the Solicitor General or the Attorney General or whoever it is, we begin to be suspicious.

Mr Kanter: I hear your concern, but it was the intent of the legislation, as I understand it, to say that in the majority of cases—some of them quite minor, some of them moderately serious or more serious—there will be the public complaints procedure that can be triggered by the complainant or indeed by a member of the police force. But in the very serious cases, cases of death or serious injuries, the director, the civilian could on his own or at the request of the Solicitor General investigate these things.

It is my understanding that this provision is here to protect people in the case of the more serious allegations. I would have thought it was a step in the right direction, although I can understand some people may have felt this did not go far enough.

Mr Pitt: I think parts VI and VII of the act present a maze of procedural and jurisdictional problems that we believe could be eliminated if you focus on the essential principle of civilian control of the total process, from the initiation of the investigation. If you focus along those lines, you do not need to make distinctions between serious and unserious offences.

Mr Kanter: With respect, it is a civilian process throughout in the case of serious situations. Our committee has received some information from the clerk, which I am sure we could share with you. I think it suggests that it is as civilian influenced, as civilian dominated as any review of the police in any jurisdiction in Canada or the United States.

Mr Pitt: Queenstown, Australia, I think has a total—

Mr Kanter: I know we have Australia on the sheet, and I would request the clerk perhaps to make that available to you. I think on the scale of these sorts of reviews in other Canadian and American jurisdictions—I think Australia and England were both mentioned—civilians have a great deal of authority, both for the less serious offences and particularly for the more serious offences. I think there is an attempt to establish a balance. Naturally we want to hear your view as to how it could be improved and we appreciate it very much.

Mr Roach: We do not have a clear understanding why there should be a distinction between what is called serious injuries and death as opposed to other things. From our experience, we find that matters that do not even involve injuries or death at all, do not even impact on any civilian, are more serious.

For example, we have a police inspector in one of our areas here. He comes to the press and comes to a public meeting and says, "I have statistics here of all the black people in this particular area committing all these crimes and so on." This causes a great deal of concern in the community. As a result of what he does, there is no recourse to a complaints procedure. That is as serious as the shooting of a person who runs a radar speed trap because of the implications and the public reaction.

Why is it that we would make a distinction between one thing and the other? Even just words spoken, depending on who says them and under what circumstances, sometimes could be as serious as the shooting of a person. So why make a distinction? We have never seen any rationale or any explanation as to why the legislators who have come up with this bill want a distinction between the special force and other kinds of offenses. We have not seen any really good explanation for that at all.

Mr Kanter: I tried to suggest the rationale as I saw it, but it may not be one that you—

Mr Roach: We have not seen any rationale. However, if it is all going to be investigated totally by civilians, it may not make a great deal of difference, except why does someone have to call the shots and say, "Let's have this investigation done by somebody else"? Why can it not be through a simple procedure of one centralized agency? Why not? There must be some good reason you are going to set up two separate situations. Does the independent civilian complaints commissioner then have no jurisdiction at all to look into that other aspect of what might be a serious crime? Is that not fragmenting and splitting the power of that office? Is that not making it more difficult for people to understand: "Where do I go to make a complaint? Do I go here or do I go there?" Who decides "Oh, this is too important for you, Mr Complaints Commissioner. We have to take it out of your hands"? Who decides all of that?

The more we have room for the exercise of discretion, the more we have room for arbitrariness and a lack of justice. This is why we want all complaints of a criminal nature, every one of them, investigated by one single agency.

Mr Clarke: It would be like the case Charles Roach mentioned a few minutes ago about what the superintendent at one

station said about black crime, and then we had the police chief play it up and we had the police commission play it up. When we tried to check it out, we could not get head or tail of where he got it from.

If you sit in the courts you realize that, all right, if I get arrested for something or other there, I end up with five or six charges, which is normal, because I look like me. Then somebody else—say, like you, Mr Kanter—gets picked up and just gets one charge. You go to court and legal aid or your lawyer says: "You have half a dozen charges against you. Maybe you cop a plea and we'll reduce the sentence." Even if they reduce it to two, that is two against me. It is only one against you. After you get about a dozen cases like that you have quite a few, and you say, "Oh, there is crime in the black community." But we do not own the drug houses on Bay Street, and how many charges are placed there?

What we are saying is that an independent commission and staff is what is needed. We do not want it separated into two or three so that somebody has to make a decision or so that the citizen who has to file a complaint has to decide, "If I go in that door, does he go and tell the police chief I brought in a complaint, or if I go in that door, does he investigate it?" That is why less is better in the long run.

The Acting Chair: Thank you very much for your presentation. While you were going through the brief, I noticed the Solicitor General making notes, underlining and co-referring with the bill. The committee has obviously listened very carefully.

The committee will now adjourn to room 228 for some sustenance and we will be back in this room at 7 pm where the hearings will continue.

The committee recessed at 1825

EVENING SITTING

The committee resumed at 1909 in room 151.

The Acting Chair (Mr D. R. Cooke): I apologize to our guests, but we did not break for supper until about 6:25.

Mr Pouliot: Your first guest has been waiting for a long, long time.

NISHNAWBE-ASKI NATION

The Acting Chair: Our first guest is from the Nishnawbe-Aski Nation, Bentley Cheechoo. Would you take a seat up there, sir.

Mr Pouliot: On a point of order, Mr Chair: I would like to bring to your attention that Mr Cheechoo is also the grand chief of the Nishnawbe-Aski Nation.

The Acting Chair: I am sorry. I did not introduce him properly. He is the grand chief. Mr Cheechoo, your presentation is being delivered right now. Perhaps you could lead us through it and hopefully leave some time for questions. We have a total of an hour.

Grand Chief Cheechoo: I will read the text I have in front of me so that the committee members can follow.

I am very pleased to be able to appear before the standing committee on administration of justice to make this presentation on behalf of the Nishnawbe-Aski people.

The Nishnawbe-Aski Nation represents 45 Indian bands or first nations in remote northern Ontario. Our territory is located north of the height of land and stretches from the Quebec border to the Manitoba border. Ojibway and Cree are the first languages for most of us, and many of our elders do not speak English at all.

The majority of our communities are remote. Most are accessible only by small aircraft. Although our communities have seen rapid change in the last 15 years with the introduction of hydro, telephone and television, many of our people still pursue our traditional way of life.

In the area of policing, our communities are currently drastically underserved. Our 45 communities have a total complement of 39 first nation constables, who hold the rank of special constable appointed by the commissioner of the Ontario Provincial Police. These officers operate under the Canada-Ontario-first nations policing agreement and are cost-shared, 52% by Canada and 48% by Ontario.

The OPP and the Ontario First Nations Police Commission have recognized that there is an urgent need to increase the number of constables. However, any attempt to do so has been impeded by a federal government funding freeze. Canada has recently completed a review of Indian policing services and is in the process of preparing a cabinet document. Hopefully the adoption of a national Indian policing policy will enable this funding moratorium to be lifted and the much needed increase in policing services to proceed.

Backup to these first nations constables is provided in most of the Nishnawbe-Aski territory by the northeast and northwest patrols of the Ontario Provincial Police. These units do a commendable job of providing fly-in policing to our communities in spite of limited human resources. Some of our communities are served by regular detachments of the OPP, in Moosonee, Pickle Lake, Timmins and the Chapleau area.

Like many other aboriginal groups in the country, we are actively pursuing self-government for our communities. In 1986 the Nishnawbe-Aski Nation signed a memorandum of understanding with the governments of Canada and Ontario to negotiate various matters related to self-government. An addendum was signed in December 1989 reaffirming the commitment of all parties to this process. Currently negotiations are under way in several areas including policing.

Our ultimate goal is the recognition of our right to self-government within the Canadian Constitution. However, we know that this goal is not immediately obtainable. With this in mind, we have developed an evolutionary approach to self-government.

The first step is the development of agencies and institutions of self-government. We have assumed responsibility for child welfare through the development of two provincially designated children's aid societies which provide for all services to children and families within our area. We recently created a legal services corporation which will assume responsibility for the delivery of legal aid throughout the NAN area. An authority is being developed to take over health services in the Sioux Lookout area and the Muskegowuk tribal council is negotiating with the federal and provincial governments for the creation of a new unified health board in the James Bay area.

As part of our self-government negotiations, NAN has recently signed a memorandum of intent with the governments of Canada and Ontario. This document signifies the intention of the parties to develop an autonomous regional police force in the Nishnawbe-Aski area. We have created a Nishnawbe-Aski police committee to oversee the development of a Nishnawbe-Aski police force. In time, we see this committee developing into a fully functioning police commission like that of any regional or municipal police force.

We see such a police force encompassing not just the first nations constables who are currently in place under the Ontario-first nations policing agreement, but having all the elements of a stand-alone police force, just as municipalities do. We would envisage that the Ontario Provincial Police would provide specialized backup services to our force on an ongoing basis, just as they do for municipalities.

Our memorandum proposes that our police force be implemented in phases starting as soon as possible. Eventually our police force will have full police powers throughout NAN territory. We want to upgrade our constables to the same level as constables generally in the province of Ontario so that we have a fully qualified police force.

In addition, our memorandum provides that our policing will be provided in a way that respects the tradition and cultures of our people. Many of our communities are remote and are currently untouched by the non-native justice system. We wish to develop innovative programs to allow these communities to maintain their own forms of crime prevention and maintenance of social order. We see that within a NAN police force the needs of these communities can be incorporated.

We are very optimistic about this new initiative in policing. We look forward to the joint development of a NAN police force and a NAN police commission, with the assistance and co-operation of the Ministry of the Solicitor General and the Ontario Provincial Police.

I indicated earlier that the creation of institutions such as a NAN police commission and a NAN police force is the first

step in the creation of our self-government. However, these self-governing institutions require a legislative base. We are reviewing all federal and provincial legislation to determine whether our self-governing institutions can be accommodated within the existing legislation or if legislative amendments are required. We are considering the development of Indian-specific sections within legislation, similar to those sections providing for Indian child and family services in part X of the Child and Family Services Act.

In this regard, we commend the government of Ontario for the recognition of first nations constables as a distinct group within the proposed new Police Services Act. We also commend the recognition of an Indian police governing authority within the proposed act. However, the proposed legislation does not provide the legislative framework to support an autonomous police force with its own police services board, such as the one we are proposing.

We would like to suggest to your committee that serious consideration be given to the inclusion within the Police Services Act of an enabling section which would allow the Lieutenant Governor in Council to designate an area such as our part of Ontario as a police services development area, and to allow regulations to be made to provide for a police governing authority and police services throughout the designated area.

Such types of arrangements have been used in other legislation to provide a framework for service delivery in remote areas of the province where the normal municipal and institutional frameworks do not exist. Examples of such structures are the Moosonee Development Area Board and the district area school boards.

We understand that there are jurisdictional and constitutional problems with respect to Indian policing. The line between federal legislative authority under subsection class 24 of section 91 of the Constitution Act, 1867, and the provincial responsibility for the administration of justice under section 92 of that act is not clear. However, we would urge the province of Ontario not to be overly cautious in this area. There is currently no federal legislation with respect to policing on Indian reserves, and recent federal publications have indicated that federal legislation regarding Indian policing is not contemplated. In our opinion, jurisdictional difficulties can best be prevented by the enactment of complementary federal and provincial legislation, and we will be pursuing this matter with the federal government.

There are several other specific comments we would like to make about the proposed Police Services Act.

The first nations constables currently serving our communities are all trained by the Ontario Provincial Police and all attend the Ontario Police College at Aylmer. We propose that NAN constables would have full police officer status and would have the powers of and training equivalent to that received by the Ontario Provincial Police and members of other municipal and regional police forces.

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Although we want our constables to have full police officer status, we do not wish them to be subject to all of the employment, disciplinary and complaints procedures that other constables are subject to. These procedures are too complex for our small and isolated communities. We would suggest that we design simple procedures which would apply to the NAN constables, but which would address the same basic issues.

The proposed requirement that a police officer must have at least four years of secondary education creates a problem for us.

Due to the low level of education among our people, we will not be able to find a sufficient number of qualified candidates within our communities if we are limited to those with a grade 12 education. Consequently we request that the standing committee consider an amendment to the bill which would provide an exemption for educational requirements for our constables.

Because our communities are small and isolated, there are many functions which do not justify full-time employment. Consequently we are looking at the idea of using generic police officers who would be able to perform a number of other functions in addition to the traditional duties of police constables. We are looking, for example, at the village public safety officer program in Alaska. Native police officers in this program perform functions in the areas of fire prevention, first aid and emergency measures in addition to their normal police functions.

We are also exploring the possibility that police constables in NAN communities could take on some of the functions of the Ministry of Natural Resources conservation officers with respect to the enforcement of game and fish legislation. Police officers might also be trained to perform drivers licence tests in our communities. We would hope that the legal framework of the Police Services Act would allow our constables to perform these types of functions.

We have been very pleased with the working relationship between ourselves and the Solicitor General and the Ontario Provincial Police thus far. We would be pleased to meet with officials of the Solicitor General to further discuss the changes we are proposing. We look forward to working together with Ontario to create a self-governing police force for Nishnawbe-Aski.

The Acting Chair: Thank you for your presentation. Mr Pouliot has a question.

Mr Pouliot: I have a series of brief questions. We are privileged to have the presence of the Honourable Steven Offer. Do you have some comments following the presentation by Grand Chief Cheechoo?

Hon Mr Offer: No, you can ask your questions. I will reserve until the end.

The Acting Chair: You are a committee member, Mr Pouliot. Do not be shy.

Mr Pouliot: Thank you, Mr Chairman. I welcome the opportunity. Not only are we paid the compliment of a visit by a very knowledgeable person, but by a friend. We have with us the grand chief of the Treaty 9 band, the Nishnawbe-Aski Nation.

I am impressed with your brief for its keeping with the principle—hopefully short term as opposed to eternal or long term, for as long, as you like to quote, as the sun shines or the river flows—or the concept of self-government, the chance to run your own affairs.

Simply put, it may mean—you make mention of it in your brief—that someone with a grade 12 education as a prerequisite vis-à-vis or versus someone who knows the tradition, who is one of yours, not one of us, someone who understands the elders, who knows the surroundings, who knows the customs, who has at heart the welfare of others, who has been there for centuries through ancestry, should not, in the real world, be too concerned with grade 12. We know that to obtain a grade 12 education in this kind of climate is a very difficult endeavour, because we are, after all, dealing with the less fortunate people in our society.

When you say you are drastically underserved, would you share with the committee some of your experience and perhaps give us some examples of how you are underserved and how badly so?

Grand Chief Cheechoo: Okay. First of all, you raised the point about the level of education as a prerequisite prior to joining the police force. I am sure you are aware, or some of the members are aware, of the circumstances that we are in within the Nishnawbe-Aski area.

It is not only that. One of the the things the committee should be aware of is that we have always had a traditional way of dealing with disputes within the community. We have always had that. What has transpired over a period of time is that, through evolution, we started depending on the services of a police force. If you recall, in the history of the province, first it was the Royal Canadian Mounted Police who were doing the work at the community level. Eventually, the Ontario Provincial Police was formed and then it became part of the whole process. Then, through evolution, we got into the band constable program.

Traditionally, we have always had somebody in the community—one, two, three, four or five individuals—who were designated to maintain peace within the community. Generally, this was conducted by one of the elders of the community, with the assistance of four or five individuals in the community. Traditionally, we always had that.

Because of the evolution that took place, we are saying, yes, there is a need to have policing services within our communities. We are not immune to the problems that the general public in Canada faces. We are still faced with the same kinds of problems and we need to deal with them, and not necessarily in the context of looking at a traditional type of police system.

Yet what we are looking at is, how can we maintain those two systems so that the policing services of individuals in the communities still can be maintained? I think we are no different from anybody else in this country in that we are looking for peace and security as we live in the communities of Nishnawbe-Aski.

In terms of looking at what are some of the problems that we have, as I indicated in my brief, there is a complement of 39 constables for 45 communities in our area. Some communities have two, some communities do not have any.

One that comes to mind is from your riding, Mr Pouliot, Kingfisher Lake. The Kingfisher Lake community has been experiencing some problems within the community and we have been trying to find a way for the community to get policing services. Yes, they are being provided periodically by the northwest patrol of the Ontario Provincial Police, but that is one specific example I can give where there are absolutely no policing services. They might come periodically into the community, if I may just use that one example.

Mr Pouliot: You mentioned the community of Kingfisher Lake, which by all standards used to be—and I want to share this with the committee—a model community. In 1988, I raised with your predecessor, Minister, the member for London South, the dilemma of the impasse faced, the concerns about the lack of policing in Kingfisher Lake.

We have a community of approximately 300 to 325 people, and in a period of six months, three young men took their lives, committed suicide—you know, wiping out a full 1% of the population. This is one community that does not have any police force, and the answer that we get is, "We are concerned."

I want to go back, Minister—and I want to share this with you, grand chief—to see what is being proposed here in Bill 107. It says under subsection 1(1)—it is almost like in the preamble, if you wish, an intent in spirit—"The need to ensure the safety and security of all persons and property in Ontario." So what you are sharing with us, grand chief, is the following: Many communities, communities of 300, in some cases 400 or 500, under the jurisdiction of the Nishnawbe-Aski Nation have no police force whatsoever. Right away you say, "The need to ensure the safety and security of all persons and property in Ontario." We do not have to go to page 4, you know. We just turned the cover, already we are on page 3, and we say, "Well, surely this is not in keeping with what will follow, for it will certainly not suffice, not service the people."

I want to share a letter with you that is addressed to me by the Honourable Steven Offer sitting there.

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The Acting Chair: Is it leading to a question?

Mr Pouliot: It is leading to a question. C'est correct là, M. Cooke ? Il n'y a pas de problème avec ça ? Merci.

I am going to read the letter anyway, because you will know where these people are coming from here, who want to make things better.

"Thank you for your letter dated 20 September 1989"—so it is most recent—"regarding the number of band constables located on first nations territories in the province of Ontario." Keep in mind here, we are talking about the need to ensure the safety and security of all persons and property in Ontario.

"At the present time there are 132 special constables deployed on 67 reserves across the province. During 1987 the federal government served notice on the province that the federal portion"—52%, you have mentioned that in your brief—"of the total Indian reserve policing budget would not be increased until a review of policing on reserves across Canada has been conducted by Indian Affairs and Northern Development."

"The impact of this decision on our program is significant. In order to maintain the 52% federal and 48% provincial funding formula, spending cutbacks were implemented." You know, they are playing ping-pong and the first Canadians and therefore the first Ontarians, are left holding the bag. "The need to ensure the safety and security of all persons and property in Ontario," and then my, my, I go to this letter and it says that because there is some hesitation on the funding—it does not say anything about your traditional relationship, the relationship between natives and the crown. Oh, no, but it uses it. It does nothing short of that.

"Spending cutbacks were implemented. This resulted in a reduction in manpower." It has taken people away, nothing short of that. I do not want to catastrophize, it is not my style, but this is what has gone on here. You are saying this resulted in a reduction in manpower, cancellation of some training programs and a delay in replacing or purchasing equipment. I am trying to believe what is being done here.

I also have, we all do, the report of the Race Relations and Policing Task Force, and we have the jail statistics. You know, what you are asking in terms of policing is to be like the others. Nowhere else does crime in a community undermine the social fabric of a community more than in the reserve.

I have a question regarding—

The Acting Chair: Your question is? I am just trying to help you.

Mr Polsinelli: This is very interesting but—

Mr Pouliot: No, I am trying to develop a theme here with the grand chief. We are talking about the less fortunate people here, who have been given a budget of \$10,000 total. The last I heard, it had not been changed by the community and I have people like Doug Sinoway, who appeared as a witness. We have people from Port Severn.

The Acting Chair: Excuse my interrupting. Please continue.

Mr Pouliot: This is an important matter here. When you talk about running your own affairs, grand chief, can you give us, not a timetable, but how would you do this? How would you start this?

Grand Chief Cheechoo: One of the things that we have done, as I indicated in my brief, is put a group together that would look at the various options we would have under the agreement that we do have with both levels of government.

The approach we are looking at right now is that we are not advocating in any way that we would come in and take over the police force tomorrow, that it is going to be dumped on us, we are going to take it away and we are going to develop and do with it what we want. No, certainly that is not the case. First of all, we are going with the principle that, politically and traditionally, for our people it is very hard to swallow, to implement the provincial legislation within our communities. That is basically taking the Ontario Police Act and saying, "Yes, we will form a police force under that act."

We have taken that principle and said that we will do it under the auspices of the Ontario Police Act. We will develop the police force through a negotiated process, looking at, over a period of time, time frames that we have set ourselves. I do not think they have been negotiated, but we are looking at a two- or three-year period when proper training could take place for management and administration of those policing services that we will have. That is what we are looking at.

We are not in any way advocating that tomorrow we will just say, "Okay, we're going to pack up our things and we are going to parade our own police force." There is a time frame, and I think that as we negotiate, that time frame is going to become more specific because we need the people to train. I think in the existing band constable program that we have, people who have been around since the inception of the program—there are very key band constables who can fit the category, with some training, to be able to manage that police force.

Mr Polsinelli: Mr Pouliot, would you mind if we respond, because there are a lot of things I do not understand. Perhaps if they were explained to me I would understand the issues a little bit better. I take it they are band constables now, you call them? How would the first nations constables be chosen under the new police act?

The Acting Chair: I have Mr Curling ahead of you on the list.

Mr Polsinelli: Mine are more in the nature of queries of the Solicitor General and just how the whole procedure works, rather than asking questions on the problems. I am curious as to the existing practice and I think it is incumbent on us to understand that, before we can even look at possible amendments to the proposed act. I am in your hands, if Mr Curling is before me.

The Acting Chair: Why do we not let Mr Curling ask his question and then perhaps we can turn it into a bit of a round table, with the Solicitor General partaking.

Mr Curling: I think what Mr Polsinelli mentioned, I will follow through on that. I think it is extremely important. Chief, it would not be complete if a presentation by your group had not been done here, when we think of the Police Services Act. We have sat here for a couple of sittings and heard from many, of course, of the urban areas and their concerns about policing, and some of the suburban areas, so to speak. But as you said, as Mr Pouliot pointed out, the entire province must be policed and serviced properly. I think what Mr Polsinelli is saying is that when you respond, do not hesitate to go into a lot of definition and details, because I do not think any of our colleagues know in its entirety what is involved.

As Mr Pouliot mentioned, the manpower is quite limited and, of course, getting people with certain education qualifications is also a problem, as you said in that respect, and we do not need to have grade 12 to police there. Where there is a lack of manpower itself, and there are a few places, does the government itself give you sufficient equipment and services to sort of offset that? I know the problem that you mentioned, that it is like the parents are quarrelling and the child is starving. The feds and the province are saying, "It is your responsibility; it is my responsibility," and in the meantime the neglect is there. Are there sufficient services and equipment there to carry the duty or do we have a shortage of manpower? Would you say so?

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Grand Chief Cheechoo: No, I would have to say that the level of service that we are getting, because of the shortage of manpower, is low. It is underserved. The example you used is one of interest, because when I look at it from that perspective, I say there is another body that is taking care of that because we have the child and family services type of thing.

We used Kingfisher Lake earlier as an example and I can use that. Say there was a crime committed in the community of Kingfisher Lake tonight. If you looked for a police officer who would take care of that, you would not get one. You would be lucky to get one by tomorrow or the day after, because even though you might have backup services from the OPP, that is the kind of dilemma we are dealing with. You are dealing with one, two, three days after the fact when a crime has been committed.

Mr Curling: Even if you get the individual, would you be able to have the transportation? Say it is permitted to go in there. Even if you got the individual, do you have the backup service?

Grand Chief Cheechoo: No.

Mr Pouliot: Natives, when it comes to policing, are at the bottom of the list. You have a higher degree, in some native communities, of alcoholism—and it is a reality, it is a fact—than in any other communities in Ontario. The suicide rate and the spousal abuse are higher, in many cases, than the provincial average. To compound the effect, if you have those incidents that are higher, you have fewer people to police them. When the grand chief says, "If you're lucky, you'll get it tomorrow," that is a standard.

More likely than not, because of weather patterns, because of availability of people, you may have someone taking his own life and it may take three days in some cases before someone with authority comes into the community to investigate. You

cannot help but be shocked. I say this regardless—it transcends political affiliation. We have all been there. But the thing is that unless the resources are given in the concept of self-government, the right and the ability to run your own affairs—we are talking here about the fastest-growing group in North America. Natives, with less infant mortality, with people living somewhat longer, although still living 10 years less than the average Ontarian, are multiplying rapidly. The population is growing, so there is a need to address the problem.

When you read this one more time, I guess you begin to understand. How do I feel if I am Bentley Cheechoo representing my people and I see 52%-48% and some training cutbacks and nobody wants to undermine the other? I say that those people are playing politics. Then you go to Kingfisher Lake and another person has taken his life. If you are a young man between 15 and 24 and you are a native in Ontario, your chances of taking your own life are six times higher than the provincial average. You begin to despair.

Mr Polsinelli: I think we understand that.

Mr Pouliot: You do not seem to.

Mr Polsinelli: I think we understand that they do not have a 911 service.

Mr Pouliot: They do not have any service at all, in some cases.

Mr Polsinelli: I would like to find out the kind of service they have.

The Acting Chair: Mr Polsinelli, I am going to let you now start to ask some questions. Unless I hear real opposition from the committee, I will let you ask questions of both Mr Cheechoo and the Solicitor General to try to facilitate some understanding of the problem.

Mr Polsinelli: I appreciate that. Mr Pouliot, I would ask your indulgence.

Mr Pouliot: I just want to make a point of order to the bill, if I may. It says here under section 2, at the bottom of the page: "‘police officer’ means a chief of police or any other police officer, but does not include a special constable, a first nations constable" etc. So we have to certainly start looking at addressing this. You and I were out to lunch. You know, when we go back home, me to Manitouwadge and you, grand chief, we cannot believe that these guys are going to protect us. They are not going to do it. They have not done it.

Mr Polsinelli: We have had 25 minutes of rhetoric from Mr Pouliot. Perhaps in the next 15 minutes we could find out what the true level of service is out there and what the problems are.

The Acting Chair: Yes. I am going to allow one other intervention before you speak, Mr Polsinelli. The Solicitor General wants to make a few comments.

Hon Mr Offer: Thank you. I will certainly defer. I know Mr Polsinelli wants to ask some questions and I know there has been a lot of discussion.

Grand chief, I am very pleased that Mr Pouliot read from part of the letter because it does point out the shared federal-provincial funding, which is at 52%-48%, as I know you are very well aware. I know you are also very well aware that the federal government has put a cap on the funding and that it is certainly our commitment that there is more that must be done

and we very much believe it must be done in line with that shared federal-provincial commitment.

However, I want to talk to the last point Mr Pouliot raised, which dealt with the definition of "police officer." I think it is important, because it comes to grips with one of the concerns that you brought forward and we very much understand and believe in, which is that a police officer does not include a special constable or first nations constable.

As such, the concern you brought forward dealing with the educational requirements would not apply, so we could be sensitive to and understanding of the realities that you have brought forward. That is what this bill is attempting to do. We want to do that in a number of ways.

I think Mr Pouliot has unwittingly stated something that is a strength of the bill dealing with a concern you have brought forward. That definition and the qualifications for a police officer have been drafted in such a way that there is that type of flexibility that you say is necessary for a first nations constable qualification.

I know we have this agreement that we are going to work again together to deal with policing and how policing can be governed or made responsible by yourselves. You know and I know that we are going to continue to work together with a series of things to deal with these issues. We have examples. You are aware of the Six Nations reserve. After a period of time and discussion, the Six Nations reserve outside Brantford is now an example of policing done by that reserve, totally governed by that reserve. We want to continue to do that with you.

That particular agreement which you have alluded to so well in your submission is the first step towards that. I recognize the concerns and certainly the commitments of many of the members of the Legislature. That is what this bill is attempting to do. I know you have in your own submission brought forward the point that the bill is important for its recognition in a separate section of first nations constables. We believe in that.

We are going to work together. I know you know that. We have some work to do, but I think you can see and have in fact acknowledged even in your presentation that this particular bill presents the framework so that we can build those types of agreements such as we have on the Six Nations reserve.

If there are any questions, certainly I would more than happy to address them, but I know that Mr Polsinelli would like to ask some very important questions on matters of interest.

Mr Pouliot: Right on that matter—

The Acting Chair: Mr Pouliot, you have now utilized 19 minutes. I gave Mr Offer a chance to respond because you were making some direct accusations. I think it is appropriate now that Mr Polsinelli have the floor. I will put you on the list after Mr Smith.

Mr Polsinelli: As I indicated earlier, I am just trying to cut through the rhetoric, get to some of the reality and understand really what the situation is.

Grand chief, you indicated that you have 39 constables for 45 Indian bands. The numbers themselves show an inadequacy. If you do not have at least one for every Indian band, you are underserviced. That is the position I would take as a committee member, and hopefully a position that my government and Mr Pouliot would take, and perhaps even a greater one than that.

What I would like to know are some things that you have indicated in your presentation. You say that Nishnawbe-Aski Nation has recently signed a memorandum of intent with the governments of Canada and Ontario, and that document relates

to the creation of an autonomous regional police force in the Nishnawbe-Aski area.

Can you talk about that memorandum of intent that you have already entered into with the governments of Canada and Ontario? What are the terms of that agreement? Do the terms of that agreement meet your needs and has that agreement been lived up to? Have the government of Ontario and the federal government lived up to the terms of that agreement? Is that agreement still relevant? Is it outdated? Tell me something about those factors. Tell me whether or not we are on our way to solving the problem.

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Grand Chief Cheechoo: I guess time will tell. You are in government and you know how long it takes to deal with things. We are not immune from that whole process. I think yes, what it identifies is a process of how we are going to deal with these things, because the true agenda or what is going to evolve out of the discussions, and Mr Offer knows this, is going to identify how the process is going to take place, certain time frames when things are going to happen and so on and so forth.

I do not think we are at the stage of saying, "Here is agenda item 1, 2, 3 or whatever." But what we are working on right now is a process of how we can get to the agenda stage. I think it will evolve in terms of looking not only at how confident our people are but at how much commitment there is both politically and administratively to achieve those agenda items.

Mr Polsinelli: How long ago was that agreement entered into? Is it something recent?

Grand Chief Cheechoo: It is very recent.

Mr Polsinelli: I take it you, along with other members of NAN, negotiated the agreement?

Grand Chief Cheechoo: Yes.

Mr Polsinelli: Do you feel that if that agreement is complied with, you will be well on your way to solving your policing problems?

Grand Chief Cheechoo: It is very difficult to say yes. In the years that I have been involved in this thing, I do not think I have ever seen one process solve all the problems.

Mr Polsinelli: The reason I am asking that is because I am thinking to myself: "What can I as a legislator do to help you? What can I as a member of this committee do to help NAN solve its policing problems?" If what I can do is make sure that agreement and its terms are complied with by my government, then I know that is something I can do. If that agreement is not sufficient to meet your needs, then maybe members of this government should be looking at something else.

Grand Chief Cheechoo: Perhaps in the longer term, because we are right now at the stage of talking about process and how that process is going to evolve. We have made progress. I am going to be the last one to deny that we have made progress. I think we have made progress even in coming to the table and agreeing that we will be talking about policing. That is a major gain. But I think how that is going to evolve is going to be a measurement of commitment on the part of my people and commitment on the part of the provincial and federal governments.

I think you talked about 52%-48%. We can probably talk about that until we are blue in the face, but until we native people see that there is movement in various directions and

there is the political commitment—I made some suggestions here. As an example, the minister has indicated to me that when we are talking about what Mr Pouliot was saying, the definition of "police officer," this does not include band constables or first nations constables.

What I am coming here to tell you is that there has to be something there to give me confidence to go back to my people and say, "Yes, we've made progress and this is the progress that we've made," so that we begin to address the policing concerns that are at the community level. If you are looking to me to tell you right now: "Here's my wish list. I'll give it to you. I'll put it on the table. In order to solve my policing problems, this is what you have to do," you will probably say, "The guy's got rocks in his head."

Mr Polsinelli: I do not want a list. I am just reading from your presentation where it says you have a memorandum of intent with both the federal and provincial governments. If that, at least in the long term, is going to lead towards solving your problem, as long as the provincial and federal governments live up to that memorandum of intent, if you are happy, I am happy.

Grand Chief Cheechoo: I think one of the things we are looking at in terms of our policing services is that they are administered somewhere else. For instance, in the allocation of policemen, perhaps some communities need them only half-time. We want the responsibility to be able to look at our whole nation and say: "These are the services that we need. We need special constables over here and maybe half-time over here."

Mr Polsinelli: I think that is a very legitimate concern. Here is where I would turn to the Solicitor General and perhaps yourself and say, in terms of the 39 constables that you have now, who decides in which band these constables are going to work? Is that a decision you make or is it a decision the Solicitor General makes? In terms of the existing administration of the constables that you have, who makes those decisions now?

Grand Chief Cheechoo: Right now, in terms of hiring procedures for special constables, the community has allocated a special constable who sits on the hiring committee and chooses, say, candidates from wherever they are applying. They have that responsibility.

Mr Polsinelli: So the community chooses.

Grand Chief Cheechoo: Yes, they are along there with the OPP in that selection. Second, if you look at the numbers, in some communities there are two special constables, so you are squeezing that more. For instance, in my own community in Constance Lake there are two special constables. Big Trout Lake, I believe, is another one up in the north that has two constables. So you start looking at 45 communities and there are two in each community, you start looking at numbers—

Mr Polsinelli: There are a lot of communities. But just out of curiosity, of the 45 communities that you have, what would be the relevant numbers in each community? Are we looking at communities of 500 people, 100 people, 1,000 people?

Grand Chief Cheechoo: In the smallest community, you are probably looking at about 125 people and in the largest, probably 1,600 or 1,700 people.

Mr Polsinelli: I take it the larger communities would have two constables.

Grand Chief Cheechoo: Yes.

Mr Polsinelli: And perhaps a lot of the smaller ones would not have any constables there at all?

Grand Chief Cheechoo: That is what I am talking about, when we are talking about administering so that we can allocate the resources.

Mr Polsinelli: Who makes that decision now?

Grand Chief Cheechoo: The OPP.

Hon Mr Offer: The decision dealing with the distribution is really made with the OPP, in consultation with the community. A difficult decision, no question, but it is really a consultative type of decision as to where best the persons ought to be placed.

Mr Polsinelli: Can we have some type of commitment from the Solicitor General, at least an undertaking, that he will consult with the OPP divisions up there and ensure that there is meaningful consultation with the native communities in allocating these 39 constables? I think that is essential. It is very important.

Hon Mr Offer: Certainly there is no problem, because it is already done. That consultation does go on now and has for many, many years. That type of consultation is absolutely essential, as you have indicated. What we are talking about is the number of first nations constables and the number of people in the area.

Mr Polsinelli: I appreciate that, but if we are talking about the actual decision-making today, I want to ensure that Nishnawbe-Aski Nation is involved in that. We are talking also about a transition process where the presentation and the self-governing as in here is something that we work on in the future, but I want to ensure that in today's practices that happens and that is being done.

Hon Mr Offer: Let me respond to that, because there are two points which you brought up, I believe. The first is that there is consultation now with the OPP and the local community to decide the placement of first nations constables. That is first.

The second deals with the agreement, and the grand chief will know that that agreement is an agreement dealing with consultation. It is a consultative type of agreement to start the discussion going, not an agreement that says, "This is what it shall be." The grand chief would be the first to say that that is not what this agreement is. But it is the beginning of a consultative process to identify some of the issues, to identify some of the concerns and then to work towards how they can be addressed, much as has happened in other areas, such as the Six Nations reserve.

I know in the last page of the submission you talk about the working relationship now between the ministry and the OPP and that you would always be pleased to meet. That, of course, is going to happen, because we have to continue on that consultative document to start to address some of the issues that the grand chief has brought forward.

Mr Pouliot: I have a supplementary.

Mr D. W. Smith: I just have a short question, Mr Chair.

The Acting Chair: Can we get Mr Smith's question, because Mr Smith has not been heard from?

Mr D. W. Smith: I will try to be as quick as I can here and cut out all this rhetoric that we are hearing. You have mentioned

education as a criterion that you are going to have problems with. What is the education now of your 39 constables in your 45 different communities?

I know a little bit of what you are talking about because I have the Kettle Point reserve and the Walpole Island reserve in my riding, and both of them work with the OPP. They have their own police car, a big black and white one, but it says Walpole and Kettle Point. If we were to drop the education level down to grade 10, is that good enough, or do we have to go a little lower? What is the education level of your 39 constables now roughly?

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Grand Chief Cheechoo: Roughly, to say this is the actual grade level I think would be very difficult but I know some constables right now, speaking from experience from my own community, ones I am really fully aware of, who I would say probably have grade 9, both constables that they have right now.

Mr D. W. Smith: But they have no trouble reading, making out their charges, if they have to lay charges. They have no problems that way, doing all that type of work, filling in reports, anything like that.

Grand Chief Cheechoo: Both constables have been there for nine years now, so obviously they have been able to function.

Mr D. W. Smith: So you think you could get your job done if we lowered the education levels maybe down to grade 9. That would do in your community.

Grand Chief Cheechoo: It is very difficult. I am going to answer it this way. When the communities are involved in a selection process in terms of the questioning I had earlier, that is not necessarily what is looked at, because traditionally years ago it was the prominent person in the community that everybody respected who became sort of the peacemaker in the community.

Now, if you say in a community there are four or five applicants for a constable position and Jimmy over here is a young man who is respected within the community, he might have only a grade 6 education, but the community knows Jimmy is respected and he is the one they will select. I cannot say here it is, okay?

Mr D. W. Smith: That is what I wanted to hear. Thank you.

Mr Pouliot: Within the Nishnawbe-Aski Nation most communities are living on reserves, while you have several other communities that have band status and to all intents and purposes are Nishnawbe-Aski. They come under Treaty 9 and yet they have not yet negotiated or made the transition from band status to reserve status. I see where you have an agreement that if you are reserve status, you have a shared responsibility, 52% feds and the province picks up 48%. If you do not have reserve status, you have band status and you are full-fledged Nishnawbe-Aski. There is no quarrel there, yet you are occupying crown land until the Ministry of Natural Resources makes a deal with the feds and calls it a reserve.

Is it your experience that those who are under provincial jurisdiction, without the sharing here—and we know that those with the sharing are deprived, there are just not enough constables. For instance, are Summer Beaver and Webequie,

among others, getting better constables or are they experiencing just the same problems as other natives?

Grand Chief Cheechoo: It is the same problem. There is no difference in terms of services that are being provided. Some of them do have constables, but the services that are being provided are being provided out of the northwest patrol.

Mr Pouliot: So it is not only the 52%-48% sharing, it is that all natives up north are having some problems in terms of service.

Grand Chief Cheechoo: Right.

The Acting Chair: Thank you very much for your presentation and coming down here to make it. Obviously it is not an easy thing for those of us who are not spending day to day on a reserve to understand all the problems, and we appreciate your assistance.

MARK WAINBERG

The Acting Chair: The next presenter is Mark Wainberg. Mr Wainberg is appearing as a private citizen, and I see from the opening sentence of your presentation you are a practising lawyer.

Mr Wainberg: That is correct.

The Acting Chair: The brief has not yet been distributed.

Mr Wainberg: I apologize for bringing it so late.

The Acting Chair: That is not your fault. It is being distributed at the present time. Perhaps you could lead us through it. We have half an hour. Hopefully you will leave some time for questions and answers.

Mr Wainberg: The reason I am here tonight is because of my experiences with the Metropolitan Toronto Police Commission over the past 10 years. As a former member of CIRPA, Citizens' Independent Review of Police Activities, I presented several briefs and have made several presentations at the Metropolitan Toronto Police Commission, starting in 1981. The reason I am here is because of my frustrations in dealing with the Metropolitan Toronto Police Commission. They have always taken any opportunity they have had available to them to avoid taking any kind of firm action when it comes to the police.

The chairman of the commission at the time when I first started going there was Philip Givens. In my brief, I have quoted statements by Philip Givens and by his successor, Clare Westcott, and Clare Westcott's successor, June Rowlands, the present commissioner of the Metropolitan Toronto Police Commission.

At a public meeting of the commission in April 1984, Philip Givens stated that the commission has no control over how the police perform their job. "In fact, if the police were to wiretap the telephones of all residents in Scarborough, the board still could not ask for an explanation." That was a statement that Philip Givens gave in my presence, and that was the prevailing attitude at that time and it continued throughout the 1980s.

At the end of my brief is a letter which a member of CIRPA received from the Metropolitan Toronto Board of Police Commissioners in 1984 which sets out probably more clearly than anything else it has done the philosophy of the commission with respect to intervening in the day-to-day operations of the police. On page 3 of that letter, which is the second to last page of the brief, there is a portion which is boxed. In that letter, John

Campbell, the acting secretary of the commission, who is still the secretary of the commission, says:

"With respect to your request that the board 'take action' with regard to certain matters, the power of a board as to its control over the day-to-day operation of the police force is very limited. The board may only make bylaws of general application and cannot give an order or direction to the chief of police or any other constable concerning a particular issue."

That, legally, is nonsense, but that attitude was carried forward and that is still the attitude of the commission. As recently as four weeks ago, when I last appeared before the Metropolitan Toronto Police Commission at a public forum entitled Policing in Metropolitan Toronto in 1991, June Rowlands, the present chair of the commission, made this statement in response to a question from the audience, "Who controls the police?" She said that the chief of police controls the operations of the police and that the police commission cannot get involved in the day-to-day operations of the police.

I take it that the Police Services Act has attempted to make it clearer that the police commissions, or police services boards, as they will be called now, have that power to tell the chief what to do. But the wording, I submit, is not sufficiently different from the existing legislation to make it clear to the police commission that, if not, it is business as usual; that they have to act in a more proactive manner.

I would like to refer to subsection 31(1) of the Police Services Act.

"A board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall...

"(e) direct the chief of police and monitor his or her performance."

"Direct the chief of police" would seem to be a fairly explicit power given to the police services board, but it is not that different from the present legislation, which is set out on page 3 of my brief, which says,

"The board is responsible for the policing and maintenance of law and order in the municipality and the members of the police force are subject to the government of the board and shall obey its lawful directions."

The Metropolitan Toronto legal department and the police commission, in their wisdom, have taken those words "shall obey its lawful directions" and have interpreted them in the manner which I have indicated, which essentially takes all the powers out of section 17 of the Police Act that it was intended to confirm.

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If section 31 of the Police Services Act is not amended, I can assure you that the Metropolitan Toronto Police Commission will do exactly the same thing with the language of this statute. They will continue to say: "We can't get involved in day-to-day operations of the police. We can only give them general directions and the police chief runs the show."

That was okay until, I suppose, the last couple of months. The Metropolitan Toronto Police Commission never did anything much, but it was not really creating a great problem for the provincial government. In the last four weeks or so, there has been considerable intervention by the provincial government, quite rightly, because it is clear that the Metro police commission is not doing its job. There has been a public inquiry created by the OPP into the internal affairs and disciplinary procedures of the Metropolitan Toronto Police. The Premier has been involved and the Solicitor General has obviously been

involved around the Marlon Neal shooting. Those are things that should have been handled by a municipal police commission, if it were doing its job properly, and it has not been.

Clause 31(1)(e), which I referred to earlier, of the Police Services Act, I submit, is not broad enough to give the police services board the powers it needs to really get a handle on what is happening in the police department. It perpetuates the status quo with respect to the channelling of information from the chief of police to the police commission.

At the present time, the police chief has a monopoly on the information that comes to the police commission, and unfortunately that monopoly has not been beneficial to the public interest, certainly in the last month. There have been a couple of matters which have come up which make it clear that the police commission cannot rely only on the chief of police for its information as to what is happening in the police stations and on the street.

The alleged prostitution ring run by Gordon Junger, formerly of the Metropolitan Toronto Police, is a matter which should have been brought to the attention of the police commission immediately; it was not. The only way that the public became aware of that was because a Toronto Star reporter got hold of a tape of one of the alleged prostitutes and did a front-page story on it. Otherwise, the public still would not know and the police commission probably still would not know that was happening. That is the kind of thing the police commission should know, but if it is relying on the chief and the chief's main priority is the public relations of the police, then it is not necessarily going to get the information it needs quickly and it is not necessarily going to get all the information it needs.

The other situation that made that apparent was the investigation of the Marlon Neal shooting, where there was a second bullet and that second bullet went into Marlon Neal's back. The public did not know about that and as far as I know the police commission did not know about that either until the chief of police decided to hold a press conference and tell the public and everybody else about it.

The police commission should have its own investigative staff and it does not. I did not address that problem in my brief, but it is hoped that when the regulations come in they will provide for independent staff for the police commission so it does not have to rely on the police all the time for its information. But in the meantime, it would be very helpful if the Police Services Act were amended so that it is not just the chief of police who gets to funnel information to the police commission. The police commission should be able to call upon, for example, the head of internal affairs or the head of the holdup squad or the head of any of the other squads to find out what is happening. They should not have to rely on the good faith of William McCormack to give them the whole story as soon as they need to know the whole story.

My recommendations start on page 4 of the brief. I am recommending that subsection 31(3) of the Police Services Act be deleted and that the section that I have drafted be substituted, and this is the proposal I am making.

"31(3) In carrying out its duties under subsection (1), the board may:

"(a) Direct the chief of police to alter or implement any practice or procedure."

That is something the police commission should have been doing for the last 10 years. I can think of only one instance in which they have actually directed the police to implement a practice or procedure, and that was around the holsters. Philip Givens, when he was in charge of the police commission, did

not like the open holsters. As a result, he directed the police to have closed holsters, and I think there was some compromise worked out, but except for that I cannot recall any situation in which the police commission has actually said, "Thou shalt implement this practice." It is not happening and the police commission is saying it is not happening because it does not have power to do it, so I think that you should make it clear that it does have power to do it.

"(b) Direct the chief of police to conduct an investigation into any matter relating to police practices or procedures of the police force or of any member or members thereof."

All right, the police commission has been doing that, so that is status quo.

"(c) Establish guidelines for the allocation of police manpower and equipment in specific situations."

The police commission has not been doing that. It should have the power to do it and it should be clear to it that it has the power to do it.

When that became apparent, that the police commission should be involved in that, was when we went to the police commission in 1984 around the wiretapping of peace activists. That was when Phil Givens made his statement that they could wiretap everybody in Scarborough and the commission could not do anything about it. It should be clear to the commission that it can stop the police from wiretapping everybody in Scarborough or from using excessive force in public demonstrations or whatever. The police commission should be giving those kinds of guidelines to the police, and it will not. They refuse to do it.

"(d) Establish guidelines for the use of specific law enforcement techniques pertaining to investigation of offences, arrest and detention of suspects, seizure and detention of property or any other aspect of law enforcement."

Another issue that came up around the peace activists was that some of their property had been seized and we were trying to get the police commission to order the police to return that property since no charges were being laid against these individuals, and the police commission would not do it. They said: "It's an internal police matter. It deals with day-to-day operations. We can't do it, by law, and we're not going to do it." That has to be made clear to them, that they can and should do that sort of thing when it is appropriate.

"(e) Ensure that the guidelines referred to in subsections (c) and (d) above are complied with in specific situations and direct the chief of police to rectify any specific breach of these guidelines."

Again, that is day-to-day operation stuff, which the police commission will not touch at the present time.

"(f) Give any lawful directions or establish any lawful guidelines which it reasonably considers necessary or proper for the execution of its duties under subsection (1)."

All right, it does that now, occasionally.

"(g) Monitor the performance of any police officer or officers, police division or special squad."

Clause 31(1)(e) says the boards shall "direct the chief of police and monitor his or her performance." It does not say that they can or shall monitor the performance of the other officers on the force, and they should have that power and it should be clear to them that they have that power and duty.

"(h) Direct any police officer or officers to provide such information to the board as the board may require, in such manner as the board deems appropriate."

As I indicated earlier, the board should be able to call in the head of internal affairs and say: "What's been happening? What

were the charges pending or what charges are being investigated?"

Even if they could do it under the existing legislation, it would appear that they cannot do it under the Police Services Act as it is presently drafted, because the chief is the sole conduit of information. So it should be clear—instead of what there is now in subsection 31(3), "The board may give orders and directions to the chief of police, but not to other members of the police force"—that the board can give an order to other members of the police force at least to appear before the board to provide the board with information. Even if you are not telling members of the police to set up a radar trap in front of police commissioners' houses or whatever, the police services board should have a right to receive information from any officer on the force and should not have to go and beg the chief to obtain that information.

Those are my submissions. Thank you.

The Acting Chair: Thank you very much, and thank you for taking the trouble to actually draft the new section for us.

Mr D. W. Smith: I will try to make this as short as possible. I will go back just a little bit in my experience to when I first started on council. I thought as an elected person I would be able to ask all the questions, get all the things done that I wanted to do. But I found out in the council's case, the clerk has an awful lot to say. I think when you talk about the police commission, yes, you are right, the chief has an awful lot to say.

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I do not know how as individuals we will ever get to the point where we can ask all the questions or find out all the things we feel sometimes we would like to know, because—this sounds like I am defending the police to the nth degree here—I do not know how they can operate if they have interference all the time either. I know that with a clerk of the municipality, or administrator or whatever title he may have, you have to let him do his day-to-day work, but I know as an elected person, a commissioner, or a civilian, I guess, you would like to know a little more than what you do. But when you started doing your presentation I thought: "This is real life. We will never find out all the things we want to find out, regardless."

If we want our system to work the way it seems to have worked—I am not saying perfectly, and I can name a case, not right in my area, but Essex county. I would liked to have asked a lot more questions in the Bastien case. That is one case that I thought communication there must have been pretty bad.

I do not think under our system we will ever get to find out all the things that we would like to, regardless of how we create legislation or policy. That is maybe more of a comment, but it is my experience of 16 years of being a municipal and provincial elected person. That is the way I see it. Maybe I have not explained it as well as I would like to.

Mr Wainberg: The chief of police does intervene, or interfere, to use your word, in the operations of the police force. The intervention of the police chief is very undemocratic. The public has no control over it. If there is going to be intervention, at least it should be intervention which is somewhat democratic. If the police commission intervenes in what the police department does, at least the police commission is representing the public interest. The police chief may or may not be representing the public interest. In some cases, what the police chief has done may be contrary to the public interest, such as whatever involvement he had in the destruction of those tapes in the prostitution ring case. So if there is going to be intervention, it

should be intervention by the representatives of the public rather than by the chief.

Mr Pouliot: This is one of the rare times that I share the concern of my good friend and colleague David Smith. He thought not only at the municipal level but when he reached the provincial level that he too would be able to ask a lot more questions in the House.

Regarding the jurisdiction of the police force in the context of day-to-day operation, the mandate to follow, from the person on the beat to the directive, etc, I am somewhat uncomfortable with the commission—not so much with the proposed mandate that you highlight or with the monitoring of compliance and with stricter monitoring. I have less difficulty with this. What I am not comfortable with, more than the ambiguities and the nuance, is the interference—exactly that—of a body or the risk of a sanction over the daily running of affairs. Then it becomes almost parallel, and what it does, if I were to follow this briefly to a logical conclusion, is sap the morale. When you cannot turn left or right or if you do not want to cross the street, you get run over by both sides, both by the police and the commission, because indeed you are standing in the middle of the road.

I think the analogy, the parallel, is brought forth in terms of the clerk. You have to know what administration is, very clearly. That is the first thing I did when I was reeve of our small municipality up north. I went to the clerk the day after the election, of course, and said, "This is what you do; this is what council does." We have never had too much trouble. We were fortunate, mind you. They were all small fellows I could deal with.

Unless everything is straightforward I, for one, would want to be meticulous in terms of the power of a commission when it approaches or comes close to the daily conducting of business. I would have to say, with respect: Show me. I would like to have your reaction.

Mr Wainberg: Are you comfortable giving the chief the full control? If the act is left as it is under the old statute, the chief really calls the shots and he is not really accountable to anybody for his day-to-day decision-making. The police commission has chosen, certainly in Metro, not to exercise any control over him. They have become a rubber stamp for what the chief does except in very, very rare cases. As I said, it is very undemocratic. The public is paying \$500 million for policing in Metro. They should know what is going on, they should know how their money is being spent and they have some input into it.

Mr Pouliot: I think it is generally, universally acquiesced that changes will have to be made; that streamlining will have to be done; that things will have to change. But when it comes to the operational, maybe the guidelines will change, and they should change and they shall change. But once those guidelines are established, you do the job. It is like a work order, if you wish. You do the job that you are told to do. But then no interference once I am in the process of doing the job. I cannot have a commission go to one of my officers in the middle of a case, or a work pattern if you wish, and say, "No, the police chief said this, and now as a member of the commission, I am entitled to more information." This is not the way you run business in the real world.

Mr Wainberg: I would think a board of directors should have that right. The board of commissioners, or the police services board, is really a board of directors.

Mr Pouliot: That would prove to be interesting.

The Acting Chair: Mr Wainberg, I notice your whole brief tends to be based on your experience of your own commission being somewhat protective of the police and not as much of an Ombudsman, perhaps, as you would like it to be.

Mr Wainberg: That is a good way of putting it.

The Acting Chair: Yet I notice that when you redrafted subsection 31(3), you still use the word "may"—the board "may" do these things. You have not really actually suggested to us that we compel the board to do anything in this regard. Is there any reason you have done that?

Mr Wainberg: If the board does not have the legal argument, if you take that away from it, then we'll exert the political heat on it to do what ought to be done. There are a lot of people in Metro who are pretty concerned about policing these days. But whenever we tried to get the police commission to do anything we would run up against this legal brick wall, and the legal opinion was nonsense. I would really appreciate it if you would consider at least taking that argument away from them so that we can put political pressure on them to do what we feel should be done.

The Acting Chair: You would still like a political decision, then, to be left with the board as opposed to mandating it to be not interfering but constantly doing certain things with the police force?

Mr Wainberg: It is hard to force them to intervene in any particular day-to-day operation, but at least if they have the power—it is hard, some of the things you would like to force them to do. The act says that they "shall" direct the chief of police and monitor the performance. I would not want to say they "shall" direct the head of internal affairs. I suppose I agree with the act to that extent, that you can only mandate them to monitor the chief. But you should empower them, I submit, to do some of the other things.

The Acting Chair: We have heard some questions of other witnesses about the possibility of audits of police work occurring. What is your response to that? If it were to occur, would you like to see that power with a board or elsewhere?

Mr Wainberg: Oh, definitely with the board. If the chief of police is doing the audit, then—

The Acting Chair: Not somewhere out of Queen's Park.

Mr Wainberg: How much does Queen's Park want to get involved in the running of the Metro force?

The Acting Chair: I am not necessarily saying they do. I am just asking questions.

Mr Wainberg: I prefer that it be the police commission. I think the local police commission is going to be more responsive to the day-to-day needs of the community.

The Acting Chair: Thank you very much for your presentation, and thank you very much for letting us benefit from your experience. We appreciate it.

Next we have Lennox Farrell.

Mr Farrell: I am here but my brief is outside.

Mr Polsinelli: Mr Farrell had a typed brief and I asked the clerk to have copies made for the committee, so perhaps we could have the indulgence of the committee for a few more minutes while Mr Farrell's brief returns.

The Acting Chair: Are you suggesting a break?

Mr Polsinelli: I am suggesting perhaps a five-minute smoke break, but I do not smoke.

The Acting Chair: We proclaim a four-minute break in the hope that we will actually start at 8:35

The committee recessed at 2031.

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LENNOX FARRELL

The Acting Chair: Mr Farrell's brief has been distributed now. Mr Farrell, perhaps you can lead us through it and, hopefully, leave some time for questions. You have approximately half an hour from now.

Mr Farrell: Members of the justice committee considering hearings on the proposed Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, I am a member of several volunteer organizations in and outside the black community in this city. Some, like the Canadian Alliance of Black Educators, try to address the possibilities of non-racist education in Ontario. Other organizations are anti-apartheid, like the Rally Against Apartheid, the organization that brought Bishop Tutu here in 1986, Oliver Tambo, the African National Congress head, here in 1988, and that is one of the present organizers for the imminent visit to Toronto of Nelson and Winnie Mandela.

It seems that all or at least most of the organizing that I do is about racism. I have other interests. I would still like to get back to the activities I formerly enjoyed as an amateur astronomer, and at least I still pay my dues as a geographer belonging to associations in Ontario. Despite all the work that I and several others—not the least people like Mandela, Tambo and Tutu—have done proving that racism exists, it continues to be an effort to prove that the elusive is also real.

I will not address you as a member of any organization tonight but will do so as a parent, husband and citizen. The details herein will address or try to address this bill but from the perspective of experiences which, hopefully, you as parents and adults too can identify with. I am convinced that if other people of goodwill can really understand what we speak about, the scourge of racism can be eradicated.

I say this from the perspective too of a man who himself had to be cured of the scourge of sexism. I am convinced that when men become feminists, the violence casually perpetrated against women will cease. So too, when racism becomes an issue for white people and not one only for blacks, natives and other people of colour, then it too will cease to be a threat to us all. I speak too from the perspective that racism is an international threat in the same way as is the threat to the environment.

On Thursday 7 June 1990, an officer with 18 years' service with the Metropolitan Toronto Police Force was interviewed on As It Happens, a national CBC radio program. The interview occurred after two black men allegedly attacked a police officer after they were stopped on a traffic violation. In my opinion, the essence of this officer's remarks was that he, in his 18 years on the force, has arrested and seen arrested people who had essentially been violators of the law. He kept coming back again and again to this theme of the problem being one of justified and fair-minded attempts at law-keeping to keep the system stable in the face of cultural changes that are occurring in a dichotomy of an "us versus them" scenario in which there is increasing conflict between the "us law-abiders" versus the "them non-law-abiders" in Metropolitan Toronto.

Time and again he restated the point that in all his years neither he nor any of the officers who were his colleagues had ever arrested a person on the basis of colour. On no occasion did he refer or admit to the presence or the possibility of the presence of racism on the police force. On no occasion did he address the reality of or admit to the possibility that with so many people, black as well as white, saying the same thing about racism, this could be reflective of a problem in the police force.

The approach by this officer is not unusual and it is for that reason I cite it. It is unfortunately the normal line heard up and down the police structure. The closest they would come to admitting the historical fact of racism is to say that its presence on the force will not be tolerated, not that its presence exists on the force but that its presence will not be tolerated there.

In the meantime we people of African heritage in Canada know that the percentage of racist police officers is likely not greater than that of racist teachers, bankers or window washers. The non-racist officers, however, do not come out and condemn their undeserving fellows publicly. Until they and others do, black people will continue to have experiences that we do not deserve and do not want. In addition, because of these experiences, the collective and unorchestrated sentiments we have, which we have expressed generally in non-violent ways, are denigrated, trivialized and side-tracked by the police commission and by some politicians. What are these experiences?

Generally, we experience discriminatory practices that, on the one hand, stereotype us and, on the other, condition the expectations of those with whom we interact, some from institutions that have prestige and are responsible for sectors like housing, education, employment, policing, etc. In short, discrimination occurs in a matrix that is also pan-institutional, long-term and systemic. In addition, because these institutions carry status, because the system is legal, the expectation is that their practices are mostly correct. The expectation is that the voices raised against these practices are those of a radical fringe, a few militant black extremists. When you add to this the fact that many acts of racism are not as discernible or detectable as an act like drinking and driving while under the influence, you can see the possibility not only for abuse and continued abuse but also for this abuse to be excused and denied when it is challenged.

Please excuse what may appear to be my belabouring this point about the nature of discrimination that makes a successful challenging of it so difficult. As you already know, it is a combination of an attitude of bias and of discriminatory actions that stem from this attitude. Since attitude is not something that is easily discerned or precisely identifiable, describing the actions which derive from it is in many instances an educated guess. When you add to this difficulty the fact that racism is so reprehensible that even its practitioners—the most effective of whom are not among the poor, the uneducated or the powerless—for the most part deny its practice, you can see why racism, a reality that is on the one hand a historical fact to people of colour but on the other officially does not exist, or when it does, it exists in faraway places and with other people.

Specifically with regard to the police, allow me to bring some experiences which I think demonstrate the reality of racism in the police force and therefore the need for this bill.

This officer has been in the force for 18 of the 21 years I have lived in this country. The following experiences are not intended to be personal—I use the personal pronoun “I”—but are more to provide you with eye-witness evidence, something that is not hearsay. I arrived in Canada on 1 January 1969.

About three months later, about March, I was pulled unceremoniously out of a train at Castle Frank subway station by a policewoman. I have always wondered what expectations were fulfilled in the minds of the people who were, like me, quite startled both by her sudden arrival and by my even more sudden departure from the train.

The subway attendant had accompanied her and together they took me back up the stairs. I was kept inside the attendant's box and I remember the stares of passengers who passed through. If my detention fulfilled any stereotypes that night, they were many, because several people saw me since I was detained so long and so late—some time after 11 o'clock—that the trains had stopped running and I had to catch a taxi home.

The police never told me why I had been detained. It was the subway attendant, who had conversed with me during my stay, who told me why before I left. Apparently I had been held because I had fitted the description of a black man who had tried to rape a woman nearby. I assume that it was a white woman, but I am not sure, not that it matters.

It was years later that I realized how close I had come that night to a kind of death. I had come from Trinidad and Tobago, my native country. I had completed high school, had worked variably as a messenger, house builder, bookseller and trainee customs clerk. I had come to Canada, a person with intramural and extramural education. I had belonged to clubs like the Pathfinders and the Boy Scouts. I had been part of national dramatic performances like the Prime Minister's Better Village program. I had participated in debating clubs, from which I learned little obviously. I had been part of national writing competitions, etc.

I had also come from a family of people with a name long known for religiosity, for respectability and for social actions guided by a sense of civic responsibility. My mother had been a teacher and my father, for a while before he married at least, had also been a policeman.

I had come to Canada to try to further my education. I had to leave behind, and subsequently lost, some 10 years of payments in things like my life insurance policy, which my mother had taken out using the first paycheque I had earned, a paycheque from the port authorities, which normally during my lunch break on payday I gave over to her at a landmark in Port of Spain known as the Sprotons Clock.

That night then—three months in Canada with parents who had eight other children to care for—if the police had decided to take me away, I could have had a very different life or death. I say very different because I have nevertheless had a different life with the police in this city. Later, over the years, I was detained on several occasions, normally for a routine check because I tended to look like someone who had robbed some bank or other.

In one year—I think it was 1977—I had been stopped so many times—I think it was nine times—that on one particular occasion while travelling on Dundas Street West in downtown Toronto, a police cruiser coming out of a one-way street named Shaw Street turned behind the vehicle I was travelling in. I still remember how I tensed up, waiting for the officer to come alongside, casually glance over, look into my car and indicate for me to pull over. I remember how I tensed up; I remember very well. I remember too the sense of desolation, loneliness and vulnerability—that time still stays with me, I tell you—that swept over me when I realized that during this moment of panic, I had forgotten that I was travelling in a streetcar and that the police could not pull me over.

There was also anger, a burning anger, and a hatred and bitterness that were a new and distressing experience to me. I had known police officers in my own country. Some I had played soccer, cricket and other sports with. Some, like my wife-to-be's family, were inspectors. Others I had gone to school with. Police were there, a part of the village I had grown up in, but I had never known this kind of confusion, harassment and demeaning treatment from them.

In reflecting on those times, I am sure that there were other people in Trinidad and Tobago who were harassed. I am sure that my arguments then might have been that people who obeyed the law had nothing to fear from the police. The possibility that many of those picked up by the police then were people who were poor and therefore defenceless rarely if ever crossed my mind. I am sure that I uncritically defended the actions of the Trinidad and Tobago police too. I have often wondered too at the way in which so many other citizens here in Canada, in Ontario, in Toronto, respond similarly to the police to the way I used to respond in my own country, and I wonder what it will take in order to get their attention too.

Since that first experience with the Toronto police in 1969, I have had several others that have left me shaken and angry. The anger is compounded by the fact that even though I have not wished for nor deserved these experiences, I also still do not have the right to come by my sentiments legitimately. I and so many other people like me have been forced to hurl our humanity against the faces of institutions that are insensitive at best and that criminalize us at worst.

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For example, my wife Joan, a teacher of mathematics and a member of a respectable family in Mayaro, Trinidad, was arrested two or three years ago and charged with shoplifting in the Jane-Finch mall. A security guard apparently had identified her as a woman who had stolen goods two Sundays before in a mall in Scarborough. According to him, she had escaped from arrest and was now accosted in the mall. The police refused to allow her to get identification from home. They took her away handcuffed, abruptly leaving our 12-year-old son Enaame to come home with the groceries and with this horrible news.

Fortunately for Joan, the evening she was supposed to have stolen those goods she had attended a banquet on the Danforth with a girlfriend. Like me, she does not use alcohol, and the priest and bartender recalled having to get her some fruit juice. This fortuitous circumstance is what saved my wife of 21 years from having a criminal record today.

Interestingly, a few weeks before the arrest I had been part of a team of people who had called a press conference to denounce the police raid on the Lawrence Heights Community Centre. In that raid the Metropolitan Toronto Police Force had cleared the centre of everyone who was not black. They then proceeded to search everyone, including the black employees in the centre.

During the several midnight raids that followed, which they conducted against the residents of this Ontario Housing complex, the MTPF had entered the home of a family who had recently had a new baby. When the infant was awakened by the noise, the mother attempted to go to it, naturally, and the police told her that to do so would constitute obstruction and she would be arrested. Even worse, up in the bedroom, the mother and father could hear their eldest son crying out in the basement from being beaten by the police. One officer tasted the baby's formula and commented to another that it did not taste like cocaine.

There are other police situations, too many other situations. From all of these I have come to realize that when the police tangle with you and if, as the outcome, they go to court and win, then you lose. If they lose, nevertheless you still lose. In fact, even when they do not tangle with you, the thought of their awesome powers can make you lose sleep and affect your health.

For example, of the many arrests and charges made against the black youths of the Lawrence Heights community, over 95% were thrown out by the courts. However, the health of the defendants' families has suffered. They lost financially because of days taken off work to go to endless court sessions. They lost because of lawyers' fees. Their families, already tense with poverty, unemployment and underemployment, tense with the insecurities and poverty that come from having only jobs that are low-paying, short term and dead end, suffered even more breakdowns and more violence in their homes.

There are also some comparative situations that I wish to draw to your attention. Lester Donaldson, for example, was killed in his home in about October 1988. The initial reports in the press were that he had been holding hostages and that in trying to free them he was killed; the police killed him. Approximately two weeks later, another man was taken off a roof without being hurt by the police. He had been shooting in the open at passersby with a pellet gun. The police had used mace, a helicopter and a net to apprehend and bring him down.

Michael Wade Lawson was killed in December 1988 inside a stolen automobile. About two weeks later, two white youths stole a plane that they flew to Buffalo where they were apprehended and brought back alive and well to stand trial.

Again, just this year, 1990, three black youths were involved in a robbery attempt because of which they were chased by the police. The result was that one of them, Pelletier, was killed, ostensibly because he had aimed a gun at the officers. That same day the police apprehended a white youth who had driven across southern Ontario in what the Toronto Star had headlined as a crime spree. This young man, during his foray had raped and killed a woman—you might remember it—and had robbed and killed a farmer, as well as stolen several automobiles. However, this young man too was apprehended by the police without injury to himself, and today is alive and well to stand trial.

In the earlier case of Albert Johnson, killed inside his home in 1979, because the charge against the officers was not one that tried to determine intent, the issue of racism in the police could not be raised in the trial. If this had been done, the fact that Albert Johnson had been repeatedly harassed and beaten by members of the police force could have been introduced into the trial. There we might have had a chance to prove the fact of racism, which this officer last week, on Thursday, denied exists on the police force.

Policing is a necessary institution in modern societies. This service too must be modernized. The present police hierarchy, militaristic and close-ranked, must be made accountable to civilian authority. They must become subject to the law of this province. The present police structure is an anomaly in a democratic society. This structure runs the risk of both becoming politicized and also of usurping the leading role of the elected officials. Everyone remembers, for example, how the police engineered the defeat of John Sewell, an incisive police critic and a former mayor of Toronto. I am sure the other politicians no doubt also took notice.

Since that time several civilians—many black—have been shot, some killed, and even more beaten, humiliated, injured

and criminalized because the police are part of a justice system in which a black first-time offender has a 23% higher likelihood of going to prison than a white youth in similar circumstances. Black youth are charged with offences where white youth would not be charged. They are also charged with offences that would not stick, but in arresting them for these the police lay multiple charges hoping that some will stick.

An example of this practice is that of charging black youth with having sold cocaine or drugs 18 months before to an undercover agent. If this charge is thrown out, the youth, as part of the arrest process, have to stand on other charges, charges of assault, etc., on which they will be given a criminal record. Once they get this record, their lives are at the mercy of the police.

It is for reasons like this that we oppose dialogue with the police. Some of them have been known to play basketball in the day with our young people and later arrest those whom they have identified as being among the leaders of the youth in order to try to turn them into stool pigeons or to try to get them deported from the country. If the youth refuse, their lives become hell.

In short, the power of the police is so considerable that it now has to be drastically curbed. They must be brought under civilian control, made more accountable and kept unpoliticized. An independent, province-wide civilian agency that will investigate all police misbehaviour, not merely the shootings and serious injuries, is the beginning of a process to democratize this most critical institution. Other parts of the process will include the need to change the way in which the police commission is chosen. This board, which guides the policies of policing, must become an elected body and it must meet in buildings that the police do not control. Also, effective mandatory affirmative action policies must be implemented.

The democratizing of the police process must also include the ways in which the police are trained. They ought to go to community colleges like other students. They should also be hired not at 18 years of age, but at least at 25 years of age. These recruits must also have experience working in community groups and settings. In addition, the police must also file a report each time they draw their weapons.

This city, like every other metropolis today, is making choices. Its institutions reflect the choices made by those empowered, like you, to do so. These institutions retain civil authority to the extent that they are perceived as being carriers of moral status. When through a variety of factors—injustice, corruption and the social dry rot called cynicism—the moral profile of these institutions is reduced, whenever this has happened, these institutions lose first the right and ultimately the ability to persuade the population by peaceful means. It is in this way, for example, that the idea for creating a New Jerusalem eventually became the reality today called New York.

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Mr Curling: Mr Farrell, I want to say thank you for that delivery. I think it is—I am trying to find the appropriate word. I leafed through this with you as you presented your presentation here, and in many instances I was actually there with some of the people who were having these tremendous, agonizing problems, the Jane-Finch situation and others.

I presume—I would say this confidently—I am much nearer to this kind of situation than any of my colleagues here and I do not expect them to fully understand it, but I hope I can make that impression, understanding the turmoil some of the people are going through with some of this harassment that we see.

The question I want to ask, though, is about government attempts to make legislation in order that behaviour would follow a certain way and people can be treated fairly. It is whether or not Bill 107 will make a difference. To your feeling, after going through the bill and having walked this long road, and many others who have come here, and having subjected yourself to being called all kinds of names—radicals and activists and what have you—do you feel that Bill 107, when it becomes law maybe on 28 June or so, will make a difference?

Mr Farrell: Yes. If I can explain. I try to speak as a parent and as a private citizen. I have interactions with a number of people and I am particularly touched by young black people with whom there is a growing sense of despair that borders on a defiance and a determination to take matters into their own hands. This is not mentioned in any sense as a threat or a crisis or so, but there is, as I mentioned at the ending, a sense that there is no moral authority, that there is no one who really cares about their experiences. In fact, no one acknowledges or accepts their experiences. It is not that we as adults do not experience those things too, but we may be a little more conservative in how we react to some situations.

Bill 107 is necessary to send a message that the rule of law in this province is primary. It will send a message to young people in particular that their experiences are legitimate, that people who are in power to acknowledge their experiences are determined to do so in ways that are forthright and that can bring relief. I do not think this bill is a catchment basin or a collecting point for all sins; it is not, but there is a need for optimism.

Among ourselves, older people like myself, Charles Roach and others who consider these young people, there are alternatives. There are peaceable alternatives that we can put in place to get this thing going. In other words, it will send a message to our whole community that the political process is primary and that it works.

Mr Curling: I do not know how to put this and I hope you understand it as I explain it. The young people you have worked with for years as a teacher—many of your colleagues are teachers too—who have somehow developed some disrespect for law and order because they feel they are not being served properly, do you find there is a more difficult aspect for the parents to have control, to set examples, because they feel the system itself does not set an example of treating fairly?

Do you feel the role has become more difficult for the parent or the guardian to maintain law and order for our kids who feel that they have given up? Do you feel that there is a given-up aspect and that there is no way, that we have lost our kids in that sense?

Mr Farrell: The point is taken. I know with my own children, and as mentioned, as a teacher, I have opportunities to speak with young people.

Rather than give you a straight answer, I will give you a scenario. I have young students, grade 9 students about 16 years of age, who have come to me as a teacher and with a sense of real bitterness said they were in a mall—this was in the Scarborough Town Centre—and a police officer passes and says, “You can read, can’t you?” teasing them, taunting them, because they assume that black kids cannot read. This student comes back to me and says, “Sir, this man was old enough to be my father and that’s what he’s telling me.” So I throw the question back to you in that sense. This is the experience of a young person in a mall and a police officer, dressed in his uniform, taunting him in this way.

When a police officer, as has happened with other young people in the Jane-Finch community, drives a car up on to the pavement and the young people are standing around—because the idea is as soon as they appear the youth are expected to run. So we have been telling the youth: "Do not run. Why are you running?" They automatically begin to run. So when they stand their ground the police will drive their cars right up to them and officers in their uniforms have been known to wind their windows down and spit on the youths, tell them to move and spit on them.

When we made the charge of this kind of behaviour on the part of the police, we were charged with attacking the police. The trouble is, there are police officers who will not do this but they themselves do not come out and speak publicly. I do not know where they speak against it. But you can imagine if one officer in a precinct does this, the impact it has on all the other officers. This is why we say this kind of bill ought to cover all aspects of complaints. I think, too, that this bill would be of benefit to police officers because I am sure that there will be some complaints made against them which are false and which cannot be justified. In that sense, I think this bill is a very, very good step forward.

If I may take the advantage while I have your question to add something else to it, I still do not think, however, the bill has gone far enough. As we put it, this bill as it is presently structured, in terms of what it is expected to do, is like giving someone a sundial to be used on the midnight shift. It is a sort of self-defeating bill. We want a bill that has teeth in it, a bill that really addresses the problem and not one that goes part of the way, because to go part of the way will only continue the great sense of cynicism on the part of our young people and a great sense of helplessness on the part of us adults who really want our young people to have a proper education, to become responsible citizens and become contributing citizens. This is the real objective we want for our children. When, however, the institution which should have this moral stature and profile does not have it, what is left to us then to give them?

I hope I answered the question in that roundabout fashion.

The Acting Chair: Very quickly, Mr Pouliot and then Mr Polsinelli.

Mr Pouliot: Your brief—again, the point is more than well taken—talks of two kinds of discrimination: one of neglect and the other, of course, of harassment. You have positively identified the proposed legislation, Bill 107, as a vehicle to bridge the relationship between the police and the community. Yet I cannot help but think that several reports, not only in Ontario but in other jurisdictions, have been written to see what could be done to find ways to improve the relationship between visible minorities and enforcement agencies, if you wish. Those have proven successful in some cases in the long term, and in the short term in others, but almost inevitably it did not satisfy the aspiration, did not lead to what people would believe to be a solution for the community or for the police force in this case. Why do you think this is the light at the end of the tunnel? Why does the proposed legislation stand up as opposed to other reports that have been piling on, that have been in the community for some time?

Mr Farrell: The bill is, in context, a good bill, or proper. But racism and discrimination, as they exist, exist in a matrix. It affects people in a whole variety of other areas for which there appears to be little relief. If you look at the question of education, it took long years to get the question of streaming addressed, if you look at the question of affirmative action—and

this bill, as it has come, itself has come like an unwanted child. It was on the table. It was not addressed. It is the shooting of Marlon Neal that has brought this bill forward in that sense. So there is that feeling that we have done quite a lot to try to do what we can and nobody is listening.

This bill has to be a link. It is a link with a number of other things, but the link has to begin somewhere. Essentially what this bill will do is send a message of optimism, a message that the system of law and order can work. I know other people are trying to address the question of mandatory affirmative action, the different aspects of the bill. The bill as it is presently structured is, as I tried to intimate, inadequate. It is self-defeating. However, properly fleshed out, that is, being province-wide—and by province-wide we feel that it has to cover in particular the native people. I have seen some experiences they have had in Sudbury, so it must be province-wide. It must be independent; that is, we think if it is under the office of the Solicitor General it will send a wrong message. It may be well intentioned, but what it would lose from cynicism, it would gain a lot more in terms of optimism if it were put in another area. It must be under civilian control and this civilian control must reflect the multiracial and multicultural reality of this province.

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Mr Pouliot: You have sitting in front of you the Honourable Steven Offer. This gentleman, this nice man, is not the Minister of Culture and Communications. He does not cut the ribbon and meet the cast after the presentation. This is the Solicitor General.

Mr Farrell: I am aware of that.

Mr Pouliot: This is the number one police person in the province of Ontario so it is a rare opportunity that we have to meet face to face a person who can relate to your presentation.

You indicated so well in different words that if you have discrimination in society, you will have discrimination if you are a baker, if you are a die maker, whatever; that it is not because you have a police force that you can stop and you can check discrimination. This bill, the result of public outcry in our society, is one of the components. This says that the government has noticed and the government is responding. You know, fear in politics is one of the best motivators. Something needs to be done.

You are there every day, sir. You see it as we all do. The demographics of Ontario are changing very, very quickly. All one has to do in terms of visible minorities is just follow visible minorities, and we are all minorities in the context of Ontario. I have only been here a little over five years and I have noticed the changes in Toronto, where in some sections, if I took the subway from point A to point B, there were few people of Oriental origin and there were few people of the black community, but now I see that these things are changing a lot. And it is changing all over. There are more people by virtue of immigration and also people who immigrate are younger and they have families, more so than people who are 50 years old and over, of course.

This gives us hope. It is a recognition that something must be done, that society is not being reflected at present, so we need to improve. That is why we pass legislation every day, because things never remain—it is not a constant, there is a certain evolution. What else, in your words, needs to be done so that the kinds of situations—and those are not situational problems; this is an approach, a style that happens on and on—so that this thing should become something of the past?

Mr Farrell: The bill is policy and as such it is a road map. The fleshing out of it will of course take place in terms of the regulations that are written and the kinds of resources provided to implement these regulations. Ultimately, and it is in this vein that I came to speak to you this evening not as a representative of an organization but as a fellow human being, you gentlemen and gentlewomen have to take responsibility in addition. I am trying to answer as best I can. If I understood the question, the question was, in addition to this bill, what other things can be done? Am I correct in interpreting your question?

Mr Pouliot: That is right.

Mr Farrell: What I am saying is that this bill is really only one leg in a long marathon which we must all be determined to run regardless of our ethnocultural or ethnoracial origins. We have a very good opportunity in this province to establish a civil set of relations between people, and this bill being passed, being put and being supported in the fullest possible dimensions, will send more than a message to the question of police and community relations. It will send a message that politicians are quite serious about this question of discrimination and racism, and in this sense it will send something that is an intangible but that is quite necessary in welding together people of different races and backgrounds, a feeling of optimism, a feeling that the system works equally for everyone, that the system operates in our best interests and therefore we have an interest in defending, promoting and maintaining that system for each other and our children.

The Acting Chair: Very, very quickly, Mr Polsinelli.

Mr Polsinelli: I do not think I can ask a very, very quick question, so I would simply like to thank Mr Farrell for his presentation. I also want to say that I had the opportunity to read his article that was published in the Toronto Star on the op ed page. I thought it was an excellent article, a lot more moderate than I had remembered you. I actually compliment you on that article. I thought it really was an excellent article. Perhaps the committee should get a copy of that article.

Mr Curling: A good idea.

Mr Polsinelli: That being said, I do not think I could ask a question in 30 seconds.

The Acting Chair: I recall reading that article too, and we will direct the clerk to get a copy from Mr Farrell for everybody on the committee.

Mr Polsinelli: Our research officer will get a copy of it and distribute it. I thought it really was an excellent article and I wish the committee would have a copy of it.

The Acting Chair: Mr Farrell, thank you very much for giving us so much of your own experience.

JAMAICAN-CANADIAN ASSOCIATION

The Acting Chair: Our next presenter is the Jamaican-Canadian Association—Nehemiah Bailey, president. Welcome, Mr Bailey. The committee has your presentation in front of it. Perhaps you can lead us through it and hopefully leave some time for questions. I understand you have Janet Nielson, the executive director, with you. Welcome, both of you.

Mr Bailey: I will attempt to lead you through it by reading it. It is brief, so I think we will be finished in time for some questions.

I would first of all like to express my appreciation for the opportunity to address your committee on this most important issue.

I come before you today representing the Jamaican-Canadian Association. Our organization is the largest and oldest continuous black organization in this province. We represent the voices and the concerns of a constituency that includes the elderly, the young, single-parent families, newcomers, the weak and the vulnerable. We speak with the knowledge and the assurance that we have the support of the mass of our people—working-class, ordinary black people.

Our programs and services respond to the needs of this constituency: settlement services, counselling, academic upgrading, leadership development, women's support, employment counselling, summer programs for youth, self-improvement workshops with teenagers, seniors' support program, a big brother/big sister program and many ongoing community development initiatives with school boards, other organizations and with agencies.

We believe that organizations must advocate vigorously and consistently for social change that will promote access, equity, respect and dignity for all Canadians. We have worked tirelessly for this in the last three decades.

We believe also that as a community we must take collective responsibility for the development and maturity of our families and our youth. For this we have worked long and hard.

I must say to you that the crisis we are currently in re police-black community relations is in our minds the most dangerous in the history of race relations in this city. I take solace in the fact, however, that this bill has now come before us. We expect that our input as a community will be valued and taken with the utmost respect. We expect that all elected officials, particularly your committee, the Solicitor General and the Premier, will work with dispatch and with utmost seriousness in seeing the passage of this legislation, with its important revisions, as quickly as possible.

We believe that the men and women of our police force face tremendous challenges in performing their duties with respect, efficiency and fairness. We believe that, by and large, they discharge their obligations responsibly. But in our mind there is racism in the force, not in total but in part. We say this to you as clearly as possible: Many in our community have absolutely no faith in the police force of this city as a result of experiences encountered personally with police officers.

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Our youth are perilously close to complete alienation. Cynicism, distrust and anger are at an all-time high. Too many youth complain of brutality, beatings and harassment. Too many residents still talk about police being abusive and downright brutal in their treatment of them. Too many members of the community literally live in fear of the police because of where they live; for example, within the Ontario Housing regions. Children run and scream in fear when police officers approach in certain neighbourhoods and schools, and we have principals and teachers who will vouch for this.

We are not being led by the so-called bunch of radicals, as referred to in the paper many times over the past weeks. We are talking about our community: housewives, single mothers, professionals, students, community workers and youth. It is a profound disillusionment among black people and people of colour.

We cannot come to terms with a problem unless we first admit that there is one. The Jamaican-Canadian Association has

over the years made many deputations and presented many briefs on this issue. We expressed our hopes and fears to the recent Lewis task force. We are tired of saying the same things with little or no positive change. We have recently attempted to initiate a series of community-based policing initiatives in conjunction with the Metropolitan Toronto Police. Unfortunately, there is a crisis of confidence with respect to this process, which was supposed to be based on honesty and constructive partnerships.

We want to dialogue and help to encourage bridge building, but in order for this to work effectively we must have strong legislation, we must have accountability, we must have public confidence and we absolutely cannot afford to have incidents like the Marlon Neal shooting. This is why Bill 107, the Police Services Act, is so critical. We applaud the government for showing leadership in bringing this bill to its present form. However, there are significant areas of concern that we would like to indicate to you.

We want to start with our position that for any of this legislation to have credibility with the public, the agencies that ensure its effectiveness must be seen to have an impartial role. Agencies must be a step removed from the police. It is unfortunate, therefore, that the Solicitor General saw fit to ignore the recommendation of the Lewis task force for a civilian Ontario race relations and policing review board. How can you set up an internal body in the Solicitor General's office, which is the ministry accountable for policing, to monitor changes in policing? In our minds, it inspires no confidence in the impartiality of the entire process. While we do have a lot of confidence in the men and women who make up the Solicitor General's department, we are bearing in mind that in this world, unfortunately, perception always comes before reality. We are also bearing in mind the good old phrase that justice must not only be done; it must be seen to have been done. We think for this to happen in this case it would have been better if this body was set up in the Ministry of the Attorney General.

Second, the boards of commissioners of police should, by their representation, reflect the reality of the community that they are supposed to be serving. We live in a multiracial, multicultural society. All other institutions are striving to reflect this in their membership; so should the police. Therefore, we have problems with subsections 27(4), 27(5) and 27(9). We think there should have been clear and specific language that the composition of the board accurately reflect the community. I am saying that we do not think subsections 27(4), 27(5) and 27(9), which refer to the composition of the board, state accurately and clearly a description of the boards of commissioners that will reflect a multicultural and a multiracial society.

In addition, we believe that the Metro Toronto board of commissioners is too closely linked with the police force. It should be, in our minds, at arm's length. It is clearly a management body for the police, but must also be an advocate for the community that it is supposed to be representing. The kind of language and defensive positioning that comes out of the leadership of the Metro Toronto board gives absolutely no indication that it is sensitive to and respectful of concerns of segments of the community. In other words, our experience is that the board gets on the defensive any time an accusation is made against the police. We do not see the board serving what we see as its role. The public needs confidence that it is serving all of us dispassionately, and not just the police force. Hence, subsection 27(1) should clearly spell out its role in our society. We cannot see anywhere else in the act where there is an at-

tempt to spell out the role of the police commission as it relates to the police department.

While we agree with the proposed employment equity legislation, we believe that every major institution in our city will eventually address this problem. We do not see it as the most critical issue right now. We think, however, that the implementation must continue. There must be appropriate monitoring, reporting, timetables and accountability.

We share a similar view of race relations training. It must be comprehensive and integrated into the body of the general police training. It should not be an add-on. It must have as resources people and trainers—experts—who know the communities by involvement and experience as well as by academic qualification. Standards and regulations must be consistent across the province.

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We also believe that policing as a career or profession, the training of police, would be more appropriately done in the regular educational institutions, just as for other professions such as lawyers, social workers, teachers, etc at a college or university level, and whatever other specialized training to be done within whatever weeks or months necessary could be done after that.

We feel that present police salary is comparable to these other careers. A teacher has to deal with people, and probably mostly students, our youth, while in the case of the police they must deal with everybody, adults and youth. We feel that an academic qualification of grade 12 is not enough. We feel that you cannot legalize one's morals, but we also feel that the degree of intelligence that one has determines the degree of tolerance. As a result, if a police officer is trained at a higher academic level, there will be the possibility of a reduced element of racism within the police force. I can see no reason, therefore, why a police officer should be of less intelligence than teachers, nurses and social workers, who all have to deal with the total community.

Our main concern is with the issue of accountability. The proposed special investigations unit—clause 112(2)(a) and clause 112(2)(b) and subsection 112(3)—is not enough for our community. We believe that the investigative process should be under the total purview of civilians. There should be no police person on it. The statements in the act as it is do not guarantee that. The unit should be independent in that it reports to the Attorney General's department and not the Solicitor General. I stated before the reason is not that we do not have confidence in the Solicitor General's department, but it is an attempt to avoid a perception of partiality.

Its membership should be composed of qualified members of the community. Again, its membership must reflect the community it serves. This should be very clearly stated in the act. It should be responsible for receiving reports on the use of firearms where it produces serious harm or death or where the circumstances warrant investigation and clarification.

We are therefore asking, I think like many others in the community, for an independent civilian investigative body to reflect the above. The general public needs to be satisfied that these types of investigations, if and when they become necessary, are impartial and must be seen to be impartial and are done competently and efficiently.

With respect to the use of force, we feel that the legislation must require an officer to shoot only when his life or someone else's is threatened. We have had some problems with this use of force in our community. Black men have died under very

questionable circumstances, shot in the back of the head while driving, shot while eating supper, half-crippled in a very small room, shot for speeding, shot for driving in a stolen car. This cries out for regulation.

We recognize that a large part of a policeman's activity involves using discretion and snap judgement. However, we find that when it comes to black people, unfortunately, that judgement is a major problem, a life and death situation. Therefore, we agree with the Lewis recommendation for shooting only when life is clearly threatened. Officers should be compelled to account for the drawing of their weapons, in whatever situation. We need some sanity in our force in this respect.

We believe that accountability, coupled with the systemic changes that will take place, will reduce the level of racism and intolerance that is obviously present in the force today. It will also increase the level of trust that our community feels for the police. Young people then will think about becoming police officers.

It is only when there is a genuine intent on the part of the government and the police that real, effective, community-based policing can take place. Our community is not immune to crime. We are like any other community in that respect. We resent the implication that because we are black we are inherently more criminal; therefore we must be policed differently, with guns drawn and the emergency task force at the ready. We do not wish to continue to feel that we live in a state of occupation. We fully support the statements made by the public complaints commissioner, Clare Lewis, to your committee two weeks ago. We cannot continue to blame the victim.

In conclusion, we are living in a time that is ripe with possibilities, both negative and positive. Your committee, and the government, have a golden opportunity to maximize on the rich and vast potential of our multiracial, multicultural community by showing strong leadership and vision. Please revise this act to include some of what we are suggesting, and send it quickly through for passage. Our city needs it; we need it; the many good police officers on the force also need it.

Bridges must be built, but they must be built on mutual trust and respect. I thank you and your committee for entertaining us.

The Acting Chair: Thank you very much for a very clear presentation. I have questions from Mr Smith and Mr Polsinelli.

Mr D. W. Smith: You haven't mentioned in your presentation the age factor that I have heard from some, but you have mentioned that you want a lot more education for the people who become policemen or policewomen. What is it like in the school classroom? I come from down in Sarnia. I have never lived in Toronto, so I have never gone to school in Toronto. Are the biases bad in the school, or are these biases developed after they get out into the work world? I am trying to ask this to see if I can realize where the problem starts or where we should be working to stop it. Do you see it in the classroom as bad as it is in real life or do you see it better than in real life?

Mr Bailey: One of the reasons I am now totally against a high school education as the requirement for police entry is that probably 20, 25, 30 years ago grade 12 students, in my mind, were more developed intellectually. They were in the position for some type of moral to be inflicted on them, and they could come out of the classroom and into jobs like those. Today I don't necessarily think that quality is there, with the exception of a few. Those who acquire that sort of moral, that sort of quality to be decent, understanding human beings, usually move on to higher education anyway. They are the ones who turn out to be teachers, lawyers, doctors, social workers, nurses, etc.

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Mr D. W. Smith: You might be saying that our education system has to be lacking somewhere.

Mr Bailey: I am saying that your education system is failing the youth. Yes, I am saying that.

Mr D. W. Smith: It was not mentioned in your presentation, but do you think that raising the age for a police officer will mature the person and make him or her more understanding?

Mr Bailey: I am not really dealing with age here. I think the age will be synonymous with whatever time one can make it through college and/or university. That will determine or control the age of that person. If you ask me, yes, it would automatically make the entry age for a police officer older.

Mr Polsinelli: Mr Bailey, thank you for your presentation. We have a whole stack of amendments before us from the Solicitor General. One of those amendments relates to section 112, which is the special investigations unit. It indicates that no current police officers are to be part of the special investigations unit. I would hope that part of your concern with respect to the special investigations unit would be alleviated. My understanding of that unit, and I think it is an integral part of the bill, is that the director of that unit must never have been a police officer. The director of that unit must have been a civilian. He could come from any facet of society as long as in his curriculum vitae he does not have some place that says he was a police officer.

The members of the unit can at some point in their lives have been police officers. I guess by being a police officer he would acquire certain investigative skills that may be of use to that unit, but not necessarily. The director can hire anyone he feels—or she feels, in this case—is a qualified member of the community. I think that is something you are looking for too.

You indicate that the unit should be independent and that it should report to the Attorney General and not the Solicitor General. My understanding of the reporting procedure is that the unit reports to the Solicitor General in the sense that the director and the unit are under the responsibility of the Solicitor General, but it is not a police force and the members of that unit are not even referred to as police officers. They are referred to as peace officers.

Mr Bailey: Right.

Mr Polsinelli: They have no relationship with any police force in the province. What they do, when they investigate a serious occurrence, is determine whether or not a criminal activity has been committed by the police officer, and they will consult not with the Solicitor General's office but with the Attorney General's office through the crown attorneys to determine whether or not charges should be laid. While the unit is funded by the Solicitor General, after an investigation has been conducted, in terms of deciding whether or not charges should be laid, that is done in consultation with the Attorney General's office through the crown attorneys.

Does that go any way in terms of satisfying part of your concerns?

Mr Bailey: If you will recall, I indicated there, unfortunately perception always comes before reality. The same sort of perception that we have today with the civilian complaints commissioner, where he has to consult first in some sense with the police department or wait until the police department gives

him some sort of indication or if someone complained, the same way the Solicitor General's ministry, which is responsible for the police, will consult with the Attorney General's ministry to find out whether it should or should not prosecute; we feel it should be the other way.

Mr Polsinelli: Okay. I agree with you that perception is sometimes a problem and it gets in the way of reality.

Mr Bailey: It is always a problem.

Mr Polsinelli: It often gets in the way of reality, and what we are talking about here is a real reporting structure in that the special investigations unit. First of all, the director of that unit, in subsection 4, "may of his or her own motion"—that is going to be changed to "his or her own initiative." So the director of the special investigations unit can investigate any occurrence he wants.

In determining whether a charge should be laid against a police officer, he does not consult with the Honourable Steve Offer or with anybody in the Solicitor General's office; he consults with the crown attorneys who are under the Attorney General's office. That is the reality, and I wonder whether that reality is sufficient.

Mr Bailey: Would it not be a greater reality if this department is right there under the department that has the power to investigate and prosecute without any sort of a consultation from across the fence? Remember, I said and you said that perception is always a problem. If you are designing something right now, if you are recognizing the fact that perception is always a problem and if there is a possibility of eliminating the perception because of the placement of the unit, is there any harm done in doing that and eliminating that perception?

Mr Polsinelli: Yes, there would be harm done, and I will tell you what harm would be done. That would be another perception that would be created. The Attorney General's office is supposed to determine in an impartial way, through the crown attorneys, whether there is sufficient evidence to lay charges. Could you imagine if the Attorney General's office goes out and does the investigation and then the same officials determine whether charges should be laid? The perception there is that they are not determining it in an impartial way.

I guess what we are doing, in order not to create another perception, is handling it in such a way that a civilian—and the Solicitor General is a civilian—that the special investigations unit would come under his ministry and have no relationship with any other police force. It would do the investigation and then another branch of the government, the Ministry of the Attorney General, whose responsibility, through the crown attorneys, it is to determine whether charges should be laid, will consult with that unit in an impartial way to determine whether charges should be laid.

What I am afraid of is, by trying to alleviate one perception, you are damaging another perception or you are creating another perception. I guess those are some of the analyses that we have to go through. I just thought I should bring those items to your attention.

Mr Bailey: We see one ministry having an administrative responsibility and the other one having what we call a prosecuting responsibility. That is how we are viewing it.

Mr Polsinelli: But that is what is happening.

Mr Bailey: When I am put in charge of the unit, to a certain degree my number one priority is to make sure that this

unit lives up to the expectation of the powers that be. Being human, if something goes wrong, not the total roof falling in, but if at all possible, I may just sit on the fence hoping it will stop there and slap somebody on the wrist and say, "It wouldn't look pretty if it gets across to the other department so don't do it next time." This is the sort of thing that we do not want to happen.

Mr Polsinelli: I do not want to get argumentative or into a debate with you, but I have to disagree with you, because if we are looking at the reporting structure of the special investigations unit, in my opinion, the reporting structure is an appropriate one. You have one branch that is impartial and you have a civilian director of the special investigations unit reporting to a civilian Solicitor General. None of these men or women, some time in the future or in the past, will be or were trained as police officers. That unit, once it has done its investigation, will consult with the people whose job it is to decide whether there is sufficient evidence to lay charges, and together they will make the decision.

I would have extreme difficulty, and so would the person who is doing the investigation, in determining whether charges should be laid and then going to court and prosecuting. There has to be some type of balance of the system, and I think that is what this reporting structure tries to do. We may disagree on that, but I think we can agree that the creation of the special investigations unit is a step in the right direction. I think we can agree on that portion of it.

Mr Bailey: In regard to your other statement trying to convince me that this unit will not have a policeman, if it is necessary to state "a director, who shall not be a police officer," I can see no harm in saying "investigators appointed by the Solicitor General to carry out investigators' duties under the direction and supervision, who are not police officers." This is left open for a legal technicality to be used and someone could appoint inactive police officers to this investigative body.

2150

Mr Polsinelli: I indicated that there was an amendment before us that has already been proposed by the government.

Mr Bailey: Fine. I did not see that one.

Mr Polsinelli: But I should indicate that it does not go as far as you are indicating. What it does say is that no existing police officers should form part of the special investigations unit. However, it does not preclude the hiring of former police officers. It does not preclude the hiring of someone who comes to this country as a police officer to be hired on this special investigations unit. Your amendment would.

Mr Bailey: Yes.

Mr Polsinelli: It does not preclude the hiring of someone from the Sudbury force working on the special investigations unit. What I should indicate, though, is that, apart from not precluding that, it does indicate at some point that if the special investigations unit is investigating something that happens on the Sudbury force, for example, no members of the special investigations unit who came from Sudbury would be able to investigate that. Those types of protections, in my opinion, are in the bill and in the amendments that are proposed.

Mr Bailey: We see policeman as a culture and they are special people. Even though I am advocating for people at the higher academic level to go in, once they go in and they stay and allow themselves to receive the special training to be a

good policeman, we automatically see that training as no different from a good salesman who has to be trained to be one. Once he is trained or brainwashed to be one, in or out of service, he does not forget that training, which now becomes a part of his culture.

Because it is a part of his culture, he is not going to get rid of whatever nuances or habits he acquired as a result of that training and those years of experience. This is why we would prefer if it is totally free of police. The type of investigative techniques that will be necessary quite certainly can be taught to other human beings who have not gone through five, 10 or 15 years of being a policeman.

Mr Polsinelli: As a final comment, I tend to agree with what you say in your presentation, that the men and women of the police force, by and large, discharge their obligations responsibly. If we have an agreement on that, surely there are former police officers who would make good members of the special investigations unit. That is simply the point that is made in the legislation, and there will be a tremendous obligation on the part of the director who is doing the hiring for this special investigations unit to ensure that he only has the best on his unit.

The Acting Chair: The very last question, of course, for the whole evening will be asked by Mr Pouliot in 25 words or less.

Mr Pouliot: Thank you very much again for your latitude and generosity. It was my understanding, Mr Chairman, if you can stop the clock for a second, that the official opposition and the third party, the Progressive Conservative Party, would share the time equally. That sounds fair to me.

Mr Polsinelli: You can share with the Tories.

Mr Pouliot: No, this is a serious matter, please, Claudio. We want to be recognized here, but we have a previous understanding that I was to get two thirds of the time, Mr Chairman. Unfortunately, that did not come to pass.

Mr Bailey, I am seeking guidance under your tutelage regarding your definition of a new breed of police officer, a kind of reorientation of philosophy to address the priority. You have called for a police officer or potential police officer, hypothetically at first, but you have called for people leaving high school at grade 12, which is the prerequisite at the present time, to be upgraded to read "a university degree," as it is in some other fields you have named, such as nursing, before you enter teachers' college, etc.

Of the work performed by a police officer, 80% is performed in the soft manner, if you will. It is not related to crime but it fills the mandate of to protect and to serve—80% is to serve.

Mr Bailey: That is right.

Mr Pouliot: From what I am informed, there are a lot of courses that are given. Opportunities abound for one to upgrade oneself. People can take courses that are related. Therefore, I am wondering, sir, if the fact that you require a grade 12 or university degree before you enter the workforce has a great deal of relevance.

But you have mentioned a point that was well taken, that the more educated you are—and I know you did not mean grade 12 or a university degree; that would be too easy, too facile—the less likely you are to show signs of discrimination. I think, by and large, you can take this to the bank. It is a reality.

Are you aware of the courses that are being given at community colleges or within the force that are directly relevant to what the mandate entails? Because they abound, sir. There are many more than there were even five years ago.

Mr Bailey: First of all, let me address the first point you made about courses being available that policemen can take. I do not think the upgrading or the training of policemen who are going to be dealing with the total community should be left up to individuals as an option for them to do or not to do. I think the requirements should be determined and they should be made to fulfil those requirements, then be professional.

What was your second statement?

Mr Pouliot: That courses abound. The relationship between grade 12 and your proposed prerequisite to enter the force.

Mr Bailey: The courses that are given in police colleges, I have no doubt in my mind, may be somehow equivalent to some of the courses people take to get university degrees. But we are aiming towards community-based policing. There is a popular phrase that familiarity breeds contempt. It also breeds the opposite. We hear statements about why police officers get jittery and fire a gun, because they are not, in my interpretation, familiar with the nuances of the individual.

If that is so, if a policeman is going to become fearful because he hears something about the members of the black community and he reacts, as a result of what he hears or reads in a newspaper, then I am saying he could be a better policeman if he is allowed to grow up in the community. Growing up in the community means being trained in the community. Go to high school in the community. Go to college in the community along with everybody else. Get qualified as a policeman in the community. Then whatever specialized training, shooting the gun, throwing the baton and what have you, can be done after that, behind doors.

Ms Nielson: I would like to go further and say that I believe in the psychology of policing. I do not think the psychology is stressed, where you have to be aware of the fears and stresses that police officers face. I am not sure it is being addressed, and not only in the recruiting or the training.

Being trained in psychology myself, I know they are given two tests, they are tested and retested for liability, but I am saying it is not enough. I feel that in the training and also in the recruitment, you have to take in the fear on an ongoing basis. As long as the police person is an officer of law, he has to have some kind of psychology where he learns to handle his fears and his stress and to be able to cope with the different communities.

I think it has to be stressed first in the recruitment procedure. I know that the force is becoming a little bit more multicultural, but I am not sure it has been included in even the psychology test. I know they are being tested by one psychologist and I fear there might be some biases there and also that in the training you have to take into account that they are facing stress on an ongoing basis and it has to be addressed.

Mr Pouliot: But would you not agree with me perhaps that you are to be community-based and if you are to reflect the community, the logical conclusion is that you are therefore from the community? Let me draw a distant parallel perhaps, an analogy with a little validity.

I spent more than 23 years in downtown Montreal, 14 of those years on the waterfront part of Montreal. When you go back home at 2 o'clock in the morning, or 3 o'clock, if you are

from the neighbourhood, it is okay. But everyone in the neighbourhood that was doing the enforcement, the policing, spoke French because in those days in that particular section of the city 80% of the occupants were French-speaking. People were involved in the community. In fact, they were from their community, if you wish. It was divided in so many sections.

What I am saying is if you have a 5,000-person police force in Toronto and if you have a black community that represents so many, the police force representation or the makeup of the police force, by and large, all other factors being equal—and if they are not equal, make them equal—should be so many by percentage, representing so many. Correct me if I go wrong. Does that not make sense?

Mr Bailey: That would be an ideal situation, if it were so.

Mr Pouliot: And the best assurance of being community-based and the best assurance of representing the community.

Mr Bailey: But unfortunately it is not so in Toronto.

Mr Pouliot: No, I am quite aware of that.

Mr Bailey: And that really was not the issue we were addressing right now. But you are referring to the term I used, growing up in the community and getting to know and be familiar with everyone in the community.

Mr Pouliot: I am not trying to distract you, sir. I wanted to go back to the grade 12 prerequisite, but we could have prolonged the discussion a great deal. I have one final question.

On page 3 of your presentation, and I quote, you say: "To have credibility with the public, the agencies that ensure its effectiveness must be seen to have an impartial role. Agencies must be a step removed from the police." Were you talking in terms of jurisdiction about emanating from the Solicitor's General's office?

Mr Bailey: I go on to say, "It is unfortunate that the Solicitor General saw fit to ignore the recommendation of the Lewis task force for a civilian Ontario race relations and policing review board." There is presently, as you know, an attempt being made to set up an implementation committee to address this whole task force issue. Again I am saying that it would have been better served across the road.

Mr Pouliot: You have talked about perception, the way you are seen. There is more to it than saving office space, you think?

Mr Bailey: There should be more to it than saving office space. There will be more than saving office space.

Mr Pouliot: And in the eyes of the public—I for one agree with you wholeheartedly about the way you are seen. It is a matter of perception indeed.

Mr Bailey: Yes, I am saying if you can avoid this perception, you should.

Mr Pouliot: The opposition says this, and I am sure there will be an amendment coming or, if not an amendment in this case, there will be some changes made.

The Chair: Thank you very much for your presentation. Obviously it was well received and carefully received. We appreciate it very much.

I just might tell members of the committee that this evening Mr Pouliot spent 46 minutes asking questions, Mr Polsinelli 26, Mr Curling 11, Mr Smith 10 and the Solicitor General 4. If anybody has any comments he wants to make on that, perhaps he could raise them with me before we start tomorrow. We will adjourn until 9 o'clock tomorrow morning.

The committee adjourned at 2204.

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J-21 1990

J-21 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Wednesday 13 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations
and Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

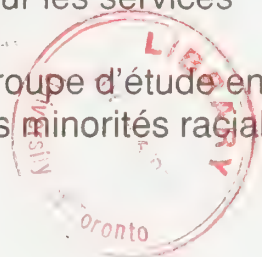
Le mercredi 13 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Robert Chiarelli
Greffier : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan



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Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au (416) 965-2159.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday 13 June 1990

The committee met at 0930 in committee room 1.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Chair: The standing committee on administration of justice is now in session. We are considering Bill 107, the Police Services Act, 1989 and the report of the Race Relations and Policing Task Force.

BLACK AND CARIBBEAN LIBERAL ASSOCIATION

The Chair: The first presenter will be Carlton Stewart from the Black and Caribbean Liberal Association. We generally provide 30 minutes per presenter. That includes time for asking questions and for the committee members to make any comment, so you may want to leave some time. Please proceed.

Mr Stewart: My name is Carlton Stewart and I am president of the Black and Caribbean Liberal Association. Henceforth, I may be using the term BCLA. I want to thank you very much for the opportunity that has been presented for my association to present its concerns with respect to Bill 107.

We think the bill is important and it is timely, and therefore, from the outset, we want to endorse the initiatives which are undertaken in the bill. We think it will not only lead to greater law and order objectives between police, and specifically with regard to our interests, the black community, but there will be a greater appearance of justice.

The bill, as we see, is multipronged. It proposes to do a number of things. I want to ask for your indulgence if you may have heard some of what I have to say before. It is not because I am interested in boring you to any extent, or repetition for the sake of repetition, but more to underscore and to emphasize and to show that our association agrees with and supports many of the things which perhaps you have heard before.

We would like to focus particularly on three main elements of the bill. The first relates to the establishment of the special investigations unit, the second relates to regulations to limit the use of force by the police and the third relates to comprehensive measures in employment equity. After I have reviewed in a little bit more detail our thoughts on those three elements, I will proceed to suggest some positive ways, which are perhaps not entirely legislative, that we see could go a long way towards reducing the dissonance between the police and our community, and of course lead to overall harmonious racial relations in this city.

The establishment of this special investigations unit to investigate police and lay charges where there are serious injuries or death is hailed as an important step by the BCLA. However, we believe that the bill should go one step further. While it is a great leap forward, we believe that what should actually occur

is that the bill should be revised to merge the special investigations unit with the public complaints commissioner's office.

We also believe that reporting relationships for such a proposal should not merely rest with the Ministry of the Solicitor General. I hasten and I am very quick to add that it is not that we do not trust the impartiality of the Solicitor General's office. We certainly have no reason, from past dealings with this office or even those who have occupied the office, to have any concerns whatever. We believe, though, that a fundamental element of solving the problems we have talked about, problems we have heard so much about and which I will not go into in any great detail, is that such a measure would increase the public's trust and confidence. Moreover, it will increase the perception of fairness by the people who have to deal with this body.

We hear statistics all the time that there may not be the problem as much as the media and others are making it out to be. In other words, except for a few isolated situations or hotheads in the community, overall relations may not be as bad as the media and others are pointing out. As president of BCLA, I would not want to downplay the fact that yes, we have had some, I could say, media-catching incidents. But I think we want to focus more on the overall situation, which is not the highs and the peaks of police-community relations but the sort of middle point—the sort of normal relations between a police force and the people it governs. We sincerely believe that the nature of good relations within the community, the fact that our community in Metropolitan Toronto, and perhaps any part of Ontario, is largely law-abiding, certainly has something to do with the form of policing, but it has a large measure, we believe, to do with the people themselves, and the respect and trust they have in the police institution.

In other words, perhaps we have heard about Detroit, and just off the cuff of my hand, perhaps if we were to exchange police forces with Detroit, people in Detroit might not be running around talking about "Our Cops Are Tops." We in Metro Toronto have used that term. We in the black community have used it, but we have always used it with an asterisk. Perhaps they are tops to most people, but for us they are not quite tops. We want to remove that asterisk.

The people I am in contact with, and those who have phoned me and given me their concerns when they heard that I was coming here—their concerns related primarily to the normal, day-to-day relations between the police and some blacks. I was told that we have been using the term "some police" or "some blacks." I want to clarify once and for all that, of course, nobody is pointing a finger at every policeman, and nobody, I am sure, is pointing a finger at every black in the community, yet we are talking about the general perception.

What I have heard more than anything else was the lack of respect and the lack of dignity when friends of mine, and others who have talked to me, come into contact with the police, chiefly with perhaps a speeding ticket or some parking infraction or some type of traffic violation. Those are the concerns I want to raise, and the fact that the opening remark—this is perhaps not new to you, Mr Chairman—is always such that it links the colour of the person with the overall perception that that com-

munity is crime-prone. I mean, the overriding concern that I heard was with respect to those people who were stopped in their cars; normal, law-abiding people going about their normal business, perhaps breaking the law in small, traffic-related ways. But a majority of them were able to relate that the police did not approach them with any sense of innocence on their part. If they were driving a nice car, a new car, an expensive car, there was always the supposition, the link, that as a black person, if you are young, you could not be a businessman; you could not be law-abiding. The only reason why you are driving this type of car is that you are into drugs or into something illegal.

0940

That may sound quite small, but think of the pain and the hurt with which I heard it. I would really like to transfer that concern over to you. It is part of the overall relations that the bill perhaps will not help to get rid of. I will be addressing that later on in my address.

The second issue we wish to speak on relates to the proposed regulations on the use of firearms by the police. It would appear, in reading the bill, that regulations would be put in place to require officers to report all instances of guns being drawn from their holsters. We support the thrust of that general policy. However, by merely having it as an expectation that the police will file a report, we believe that is insufficient. We should take the extra step, go the extra mile, and require that in all instances of the police unholstering a gun, it should be mandatory that a report be written.

I have been able to do only a little bit of research, but it seems that most of the objections to that have come from the point of view or the notion that this measure would cause police to hesitate to use their weapons in critical situations, that it would take up a lot of time and paperwork and that overall it would be non-productive and in fact will not lead to any appreciable improvement.

We believe quite the converse of that: that there is an important element in police drawing their guns and that is the element of accountability on the part of police officers. If, as the bill suggests, certain procedures with respect to training are implemented, we believe that we would begin to see a new breed of policeman, more sensitive, better trained and better able to deal with instances where, instead of putting themselves in a position where they resort to using a gun, the gun in fact will become the weapon of last resort and they would try to use other measures to combat the crime in that situation.

We have seen that in the United States, where this requirement has been in force for five or six or even seven years—I have seen reports in the papers and I have read reviews in certain police magazines—it has become an everyday, standard thing and it does not impose any great difficulty whatever. So in fact I urge you, whenever those regulations are written, to commit the police force to mandatory action in terms of filing reports.

The third measure we wish to speak to is the one of employment equity. We also support the philosophy of this policy. It springs from the fact that we have a multicultural and multiracial society, and it seems common reasoning and almost in line with most people's expectations that the police force will in fact be reflective of the society it serves. Many of the initiatives mentioned there are new, they are path-breaking, and for this we commend the authors of the bill. We hope those provisions will in fact be approved and enforced.

Moving away from the legislative end, I would like to comment on BCLA's view of the problem we have. If you read the papers or listen to the electronic media and others, nobody seems to have a grip or a handle on what the problem is. It reminds me of some story I read a little while ago—and it may be more familiar to you—about a blind man sitting on an elephant and trying to describe what an elephant looks like. The one who held on to the head obviously had different physical attributes, or if you held on to the tail, that would also be different in its description, or the torso of the elephant.

In other words, the point I am trying to make is that the problem is multifaceted, it is multipronged, it is different to different sectors of the community. It is almost an insult to both the police and the black community for us to simply say that what we have is a police-black problem. The problem, we know, is much more than that. Police are merely reflective of the society from which they have been spawned. The only difference, I want to add, is that they, perhaps unlike any other body, have the capacity to physically enforce some of their attitudes, prejudices and discrimination which arise from the perceptions of the people they are dealing with.

Recognizing that the problem is difficult to solve, we want to begin to add something in terms of a positive debate, ensuring that our community remains livable and worth while and one in which every person, regardless of his race or creed, can feel safe, can trust the police and can go out and live his life.

To this end, we are calling upon the government to establish what we have termed a racial harmony commission whose only mandate is to look at positive ways to enhance relations among the various communities. We acknowledge that there are lots of initiatives already in place which are legally based—the whole question of employment equity, the thrust of Bill 107—but what BCLA is calling for is a body that would spearhead the initiatives and lessons we have learned from education, from community relations and from the myriad of other groups and policies we have talked about. We really want to focus on the fact that such a commission should look at the social aspects of interracial harmony.

In other words, we begin to address the issue. I do not know about young white children, but young black children have the impression now that they should be afraid of the police. If you question 8-, 9- and 10-year-olds—and I did this recently just to find out—they have been told: "Don't trust the police. Don't have anything to do with them. Just stay out of their way if you want to survive." We think these attitudes are debilitating and do not lead to very good future relations.

Therefore, if nothing else comes out of it, or in addition to the thrust of the bill, we would like the powers that be to seriously look—and we would be more than happy to spell it out in greater detail—at how this commission could probably work. This racial harmony commission would be responsible for overall relations in Metropolitan Toronto and perhaps the province.

0950

In closing, I want to add once again that we, as representatives of the Black and Caribbean Liberal Association, know there are certain peaks and aberrations in minority communities and the police, but overall there is still a climate which is possible for the re-establishment of trust, a re-establishment for both groups to work together. We sincerely believe that they are not two solitudes, as much of the media has pointed to, but they are in fact two sides of the same coin.

The Chair: We have about five minutes for each caucus, and so far we have an indication from Mr Curling and Mr Cooke that they do have some questions.

Mr Curling: Mr Stewart, I want to commend you for a very good presentation. I know that in the short turnaround time it is so difficult to co-ordinate your points because many other groups have come, as you said, and made the same points. It is so important. They need to be said over and over again. My colleagues here stand ready to understand. Of course, we do not expect that in 15 hours of hearings. I urge the communities who are educating those who are not quite familiar with the sort of interaction they have with the police to understand it from that perspective, as you say.

You made an extremely good point. In your presentation I think you were saying that Bill 107 is an excellent bill; however, legislation alone will not do it. Hence you spoke about setting up this racial harmony committee.

Again I should make mention that I think all are ready to change and to respond to the problems we have. Over the years I have heard good remarks about the deputy minister, Mr Lal, who has been quite receptive to receive groups from time to time on all sides. Independently, I have heard very good remarks about those meetings.

I have also heard very good reports on the police, some police officers they have met who want to respond to the concern that they have. I have met the chief, who seemed honestly and really to want to do something about this problem that we have.

We do have a problem. We have a problem of racism and we must face it. We have a problem with racism in our society. We have a problem of racism in the police. We have a problem of racism in quite a bit of society around, but we must be careful not to say, "I don't believe that we have a racist police force at all."

We also have a race relations directorate. I would like to know, if you could comment, basically if you feel that has enough clout. We have a women's directorate and a native affairs directorate. I just wanted you to comment on whether it needs more clout in that area, more money or a stronger mandate or so on. Could you comment on that?

Mr Stewart: Yes, I am pleased to comment on that. Thank you very much, Mr Curling. We are aware that there is in fact a race relations directorate and all these subgroups. However, the issue or the question is one of increasing clout, to use your term. A racial harmony commission on the scale we are thinking of is a provincial initiative with a high profile, perhaps responsible to a special cabinet minister.

I mean, we know the race relations directorate relates to Mr Wong, the minister responsible for multiculturalism. We believe that people have heard about this, but we want the racial harmony commission to be front and centre in the attack against racism. It should not be just a little body which is set aside to meet occasionally with community groups, especially the visible minority groups, and have a talk and say everything is good. We should begin to see this as something which would be long-term and the type of group that would begin to be aggressive and proactive and not just sit back and perhaps talk in a group.

I do not want to accuse the race relations directorate of doing so. The people I have talked to, apart from knowing that a race relations directorate exists, perhaps they know who heads the race relations directorate and they are very vague as to what it does. The racial harmony commission would be front and

centre and everybody would know what it does and stands for. What I am talking about is more clout and profile to such a group.

Mr D. R. Cooke: More independence?

Mr Stewart: Yes, and more independence.

Mr Sterling: I appreciate your coming in front of the committee and bringing your concerns here today. How many people are in your association?

Mr Stewart: In terms of active membership we have about 450 members.

Mr Sterling: Do you have an executive of your association?

Mr Stewart: Yes, we have an executive body.

Mr Sterling: How many people are on the executive?

Mr Stewart: There are 15.

Mr Sterling: How did you come to formulating your brief today?

Mr Stewart: We were involved in looking at many policy initiatives of the government. Policing is one which we have had for a very long time, simply because from time to time we get calls from the community as to, "What can you do?" or "What are you guys doing with respect to so-called attacks on our community?" We are also studying the employment equity bill. So we have different subcommittees which are looking at different bills.

We believe that it is one thing to stay outside the system and talk about it, but we should be more proactive and try to find ways and use the vehicles and opportunities to improve whatever legislation comes down that we think will affect our community.

Mr Sterling: Who can be a member of your association?

Mr Stewart: Our association is primarily—you can call it a partisan association. We started out by being a group to get involved in the political process. In our community there are various groups that are aligned in some way with various political parties. We are not antipolitics or scared of politics, because we believe that what should happen—and we try to encourage other groups and other people in our community—is to stop sitting on the sidelines and get involved in the political process. Our group has decided to align ourselves with the Liberal Party, so we are Liberal Party also.

Mr Sterling: But are all your members from the Caribbean?

Mr Stewart: Not at all. It is an umbrella group for blacks, ranging from Canadian-born blacks to Africans and Caribbean people. I must say that most of the membership, some 75%, has some roots with the Caribbean, but there is some representation from the various other groups.

Mr Sterling: In your brief, about the difference between the police and the general public and that they reflect the general attitude and that kind of thing, you said that the only difference between the police and the general public was that they had the right to use physical force.

I would disagree with you in that end. I think there is a tremendous difference in that they have a tremendous responsibility to enforce laws which we, here in this Legislature and in our federal Parliament, sit around and piously make and try to

put in terms of wording in various pieces of legislation. Do you not see that that responsibility to protect society is a tremendously difficult responsibility to execute and that that makes a tremendous difference in them as opposed to the general public?

1000

Mr Stewart: I am pleased to respond to that. I have somewhat of a military background. I have been involved in Canadian military institutions. In my university days and in the military alliances I have had, many of those members went on to be policemen. I know that the police as a group have a particular esprit de corps, something that keeps them together, because somehow they feel as if they are under attack.

So I agree with you. The job is an extremely difficult one. I would not want to be a policeman myself. I do not think I could be a good one, and I know it is challenging, so yes, I agree with you. It is more than just having the physical force to enforce it. The job demands the wisdom of Solomon and the patience of Job, and in all cases policemen may not perhaps have that wisdom with respect to the sensitivities of particular communities.

Similarly, I am quick to add, perhaps in their dealings with policemen, members of some communities—not all communities—may not be as sensitive towards the challenges and the difficulties facing the police, and therein lies the problem.

I think what we have to go about doing is accept the fact that we have a problem. I do not know for sure how to define it. We are all searching for ways to define it, and looking for means and policies to come to grips with it.

Mr Sterling: You would have much better knowledge than I, but in different countries around the world there are different attitudes towards law enforcement. Is there a different attitude—in general, I am talking about, not specific—in terms of Caribbean people towards their police forces as opposed to what our attitude would be towards our police forces here in Ontario?

Mr Stewart: We have had some debate in our organization, especially with respect to whether in fact similar types of attitudes would happen in the Caribbean and what our reaction would be. I think there is a difference.

Policemen are policemen around the world, and they have a particular outlook, and they are quite right to have that. The difference we see here is that there is a coming together in a number of ways of crime being associated with colour. We do not want to put it as harshly as that.

I will tell you something. I live in Etobicoke. It may be the typical middle-class community. I jog late in the evening, 11 o'clock; put the kids to bed, you know? It is quiet now. I have been stopped many times, but I do not mind that, because I look at it as the policemen doing their work. They stop me running—I am running through the community—"What are you doing around here?" I have simply said, "I'm jogging, I'm trying to keep fit, I'm putting on too much in the middle section." "Okay, way to go," and they have gone on. So to a certain extent, it is the attitude, and sometimes I wonder: If I suddenly say, "What are you asking me that for?" in other words, if I do not go behind why he is asking me the question, then there may have been altercations.

What I am saying is, sometimes I wonder whether other, white joggers—and I have asked my friends, John and others who jog, "When you jog around central Etobicoke, are you stopped by the police?" Both of them said, "No, we've never been stopped in the night." And I said, "Well guys, for some

reason I've been stopped. There's been no conflict, but I've been stopped. Why?"

The point I want to make is that we, as a society, not just the police, have to begin to treat everyone we get in contact with from a merit point of view—in other words, from a point of view forgetting colour—and treat everybody on an individual basis.

Mr Sterling: I could not agree with you more on that; there is no argument on that. What I was trying to get at was, in terms of government, when people come into our country, are we educating them as to what our legal system is? Are we educating them as to what is required of them, as new citizens in our country, regarding the legal system?

The responsibility is not just one way here. The responsibility is not all on the shoulders of the police to uphold our laws and to live according to our laws, etc. There are different attitudes in various European countries, for instance, towards their tax laws and the amount of evasion that takes place in different countries in terms of taxes. Does your club, for instance, do anything in terms of education in that way?

Mr Stewart: Okay, two questions. I shall answer the first one. No, I do not think enough is being done. Our association tries to have seminars from time to time, and we have had two, to explain to people the laws of this land with respect to, say, drinking in public. In the Caribbean you go to a soccer game, a cricket game or what have you, and alcohol is freely available. We try to impress upon people here: Canadian laws with respect to consumption of alcoholic beverages are different. Therefore, do not find yourself with a bottle of beer in your hand at the park, and when the police ask you about it, you think you can begin to abuse them.

So the answer to your first question is no. More could be done. We try to bridge that gap of education. This is why some of those types of initiatives could be funnelled through the racial harmony commission that we have talked about—little, discrete steps, but which in the long run go a long way towards solving the overall community problem.

The Chair: Thank you, Mr Stewart, for coming before the committee and sharing your comments and recommendations. We appreciate it very much, and I am sure that the committee members will take them into account.

ONTARIO HUMAN RIGHTS COMMISSION

The Chair: Our next presenters will be from the Ontario Human Rights Commission: Catherine Frazee, chief commissioner; Alan Shefman, communications director; and Anita Dahlin, director, systemic unit. Please come forward. Just a reminder that we allow about 30 minutes per presenter, and hopefully that includes time for questions and comments. Please proceed.

Ms Frazee: Thank you very much and good morning. I am Catherine Frazee, chief commissioner of the Ontario Human Rights Commission. On my left is Anita Dahlin, director of our systemic enforcement unit at the commission, and Alan Shefman, director of our communications and education unit.

First of all, by way of introduction, the Ontario Human Rights Commission was established in 1962 to administer and enforce the Human Rights Code. In the 28 years since 1962, our programs have developed to include, in addition to complaint resolution, areas of systemic discrimination, community advocacy, education, and policy development and research.

Our programs are carried out from 16 offices around the province. We operate at arm's length from government. The commission's mandate, very simply, as stated in the preamble to our code, is to create a climate of understanding and mutual respect where the dignity and worth of every person is recognized and equality of rights and opportunities—equal treatment, that is—are provided without discrimination.

1010

All police activity and all police officers in Ontario are governed by the Ontario Human Rights Code, as are all other institutions, both public and private, within this province. There are two particular provisions of the code that would have direct bearing upon allegations of unequal treatment or discrimination by the police. These are section 1 of the code, which deals with services, and section 4, which deals with employment. In my written submission, I have included the full wording of section 1 and section 4 of the code.

Section 1, the services provision, ensures and guarantees "equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap."

Similarly, section 4 of the code provides, "Every person who is an employee has the right to equal treatment with respect to employment without discrimination" on any of the enumerated grounds.

The commission receives and inquires into complaints alleging discrimination or harassment by the police, both as service providers and as employers. This submission is based in part on that experience, but also in large measure as a result of our experience in the area of community relations around the province.

In a multiracial and pluralistic society such as ours, the principle of equality must be integral to the delivery of policing services, to the internal working of the police force itself and in fact to every face-to-face encounter with the community.

As the primary institution with special powers to arrest individuals and to use force if necessary, the police are in a unique position to commit substantial intrusions upon the freedom, dignity and rights of individuals. It is therefore essential that they use this power sparingly and that adequate mechanisms are in place to ensure that they serve the community with fairness, humanity and respect.

The current situation in Metro Toronto—I need not elaborate for any of the members of this committee—is indeed a grave situation. This is a time of extraordinary tension, volatility and erosion of trust. The tension, most specifically as a catalyst, has arisen from incidents where there have been shootings of members of the black community.

From these situations, both the actual incidents and the events that have unfolded following those incidents, it is obvious that there is a critical need for our police forces as fundamental institutions in society to review and to amend their practices. We must ensure that all of our institutions maintain their dynamic, to constantly evolve in meeting the needs of society.

The proposed act, even by its name, the Police Services Act—as opposed to the former Police Act—seems to indicate to us that the will and the interest to see that change take place is there. We strongly applaud that recognition and the important symbolism of it.

In February 1990, the Ontario Human Rights Commission made a presentation to the Race Relations and Policing Task

Force, which was headed by Clare Lewis. In that submission we brought our concerns and our expertise in a number of specific areas to the attention of the task force, focusing our recommendations at that time upon issues of police and community relations and matters relating to aboriginal people and policing service.

With the proposed act now before us and with our earlier submission as a point of departure, I would simply like to highlight in the next few minutes some of the very important aspects of this new legislation.

The proposed act shows a serious attempt to address many of the issues recommended by the human rights commission to the Lewis task force and also many of the recommendations which drew our support in the final report. Mandatory employment equity programs and civilian review processes are most certainly the most significant among these.

The Ontario Human Rights Commission has long been an advocate of mandatory employment equity. Only through the process of development of detailed plans, with goals and timetables for achievement and mechanisms for monitoring progress of those plans, only in that formal, structured way can we ever hope to address the historic underrepresentation of women and minority groups within our police force.

The human rights commission, through the special programs section of the code—that is, section 13 of the code—has a responsibility to encourage equity programs which relieve this kind of disadvantage. Either on our own initiative or at the request of a program provider, the commission can review, and does review, and approve employment equity programs. We consider this, obviously, to be a very important role for our commission. Very soon we will be releasing a detailed guideline on the kinds of elements that make up special programs. In fact, if it is of interest to this committee, I have with me a pre-publication copy of these guidelines, which I will be happy to pass along for your information following this presentation.

When the act is proclaimed, we would certainly welcome the opportunity to share our knowledge and our expertise with police forces as they begin to develop employment equity programs consistent with our own special program guidelines.

Employment equity will not solve all of the many problems facing police in the increasingly complex society we live in, but it will clearly—I am sure you have heard this before, time and time again—provide a new and an important face. A police service that is representative and will significantly enhance the image, the credibility of the force, of the police service, will enhance the quality and extent of communication with the community and, perhaps most important, will enhance and boost levels of trust.

As more women and representatives from minority backgrounds enter the force, the attitudes and the insights these people bring will have a very positive influence upon their peers, their colleagues from the majority culture. A representative police force models, quite naturally, the behaviour of tolerance and respect which we advocate as a first principle of social justice; that is, speaking practically, a representative force will be far less likely to find itself embroiled in the kind of controversy that is now occurring.

The second major area following employment equity, of course, is the civilian review of police actions. This is another area which the commission sees as helping very significantly to improve the trust, credibility and performance of this important institution. We are an enforcement agency ourselves. As such, the human rights commission very clearly recognizes the neces-

sity to ensure that the decisions we make proceed through a thorough and fair process, with appropriate checks and balances, and that those decisions are perceived accordingly.

1020

The implementation throughout the province of Ontario of a civilian review process for police complaints along the lines of those presently in place in Metropolitan Toronto is a welcome initiative.

While the act provides for individual complaint investigation and resolution, we believe there remains a need for a public and independent complaints commissioner to operate proactively. The commissioner, at his or her own discretion, should be able to initiate investigations appropriate to address issues and practices that extend beyond the particulars of an individual complaint.

I make this point simply from the important and obvious experience of human rights enforcement, not only in Ontario but across jurisdictions in Canada and North America. In fact, we are very cognizant now that the limited impact of a reactive complaint mechanism, which operates to the exclusion of proactive or preventive initiatives, is by definition deficient. Often individual complaints are simply symptoms of larger and more pervasive root causes. We would emphasize that it is essential that the complaints commissioner have a mechanism in order to address those root causes, those issues of discretion, priority-setting and enforcement strategy at the level of police service.

On another point, I would like to point out that section 47 of the act, which entrenches the rights of police officers with disabilities, reflects quite clearly the same standards set out in the Human Rights Code and the standard that has been articulated by the commission in its guidelines on accommodation of persons with disabilities. This is a significant protection for police officers in Ontario and it is the first piece of legislation in the province that has adopted this very high standard.

We support the inclusion of a preamble in the proposed Police Services Act that sets a tone reflective of the interests of all citizens of this province. These clear, unequivocal statements such as the "importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code," the "need for co-operation between the providers of police services and the communities they serve," the "need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society," and the "need to ensure that police forces are representative of the communities they serve," are all important principles and statements should be posted in prominent places in all police stations in the province to symbolize and to remind both police officers and the general public of the principles within which all police work.

I turn now to some of the concerns which the commission would like to raise to your attention, items and elements perhaps not addressed as clearly, as explicitly or as strongly as we might like to see in the act.

I would say first that while we are very impressed by the scope of the act in its attempt to propel the police towards greater responsiveness, we are somewhat concerned, as others are as well, that the act as it is now written fails to provide the level of detail in some areas which is needed to give clarity of intent and direction. We are very hopeful that the power of the Lieutenant Governor to develop regulations in a wide range of areas will be exercised quickly and that detailed provisions for the implementation of several initiatives will be included in that

exercise. This detail is critical to the success and credibility of many of the changes suggested in the act.

For example, mandatory employment equity will only work if the outlined details of the plans which each force must submit are made absolutely clear. There must be consistency and clarity in the requirements of employment equity. The regulations must specify that beyond local representation there are known disadvantaged groups within the Ontario labour force that should be represented in any municipal force recruiting from across the province.

These groups, of course, are visible minorities, women, persons with disabilities and aboriginal people. For monitoring purposes, detailed statistics on the workforce composition of each police force in the province should be published annually by the Solicitor General, who has been given responsibility to monitor employment equity plans.

We are also concerned about the requirement to be a police officer under clause 43(1)(e). The requirement is "successfully completed at least four years of secondary school education or its equivalent." Our concern is that this requirement should not operate as a barrier to groups that may be or may have been educationally disadvantaged. Such a requirement could have a serious disparate impact upon first nations constables, as defined in section 54, in preventing those who may choose to do so from entering the regular employment stream.

There is a provision in part I, section 3, which states that the Solicitor General has responsibility for developing and promoting "programs to enhance professional police practices, standards and training." That is absolutely imperative to the successful delivery of policing services in this province. Clearly, detailed regulations will need to be developed specifying the standard and the rigorous training requirements, with an emphasis on race, community and aboriginal relations. These programs—I think and I hope it should go without saying—must be conducted by highly skilled, community-based experts, and the commission would certainly hope to be consulted and serve as a resource in the development of these programs.

With respect to the issue of reporting on the use of firearms—a long-standing issue of concern that has arisen once again following the shooting of Marlon Neal and during these hearings—the human rights commission believes that all unholstering of firearms must be reported. This reporting responsibility will augment and reinforce accountability by individual officers for their use of force. Furthermore, the analysis of the information contained in these reports would assist the authorities in assessing patterns, if any, of the circumstances in which weapons are being used, circumstances which may offend the principles of service equity or which may depart from the standard that the Human Rights Code demands from all of us; that is, equal treatment with respect and dignity.

The commission is also concerned that the new act does not provide a strong enough structure for the development of innovative policing strategies at the community level. In our remarks to the task force on race relations and policing, we urged that a network of community policing structures be established at every level of the community. This would mean, for example, that each division in a larger police service would establish community consultation and liaison committees. We also strongly advocate legislating that race, aboriginal and ethnic relations units be established within every police service in the province.

Finally, we have a number of particular concerns about the impact of this act upon the aboriginal people of this province. That Metropolitan Toronto has the largest concentration of na-

tive people residing outside of reserve communities is a fact, and like so many other facts relating to their existence, needs and contribution to the community, these have been largely ignored historically by our public institutions.

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The pervasive inequality between Canada's aboriginal people and the rest of the population remains one of the major deficiencies and shortcomings of our society and one of the major injustices for which we are all responsible. The recent royal commission on the prosecution of Donald Marshall in Nova Scotia, the Manitoba aboriginal justice inquiry and the glaring statistical evidence which indicates a very disproportionate representation of aboriginal people in our correction system provide just a few examples that illustrate the negative experiences with the Canadian criminal justice system of our first nations people. These experiences continue to shore up a wall of distrust between native people, police and our system of justice.

It is difficult to enter into a discussion of the relationship between aboriginal people and our institutions without touching upon the need for responsiveness. All of our public institutions must integrate the efforts of aboriginal people to maintain their cultural integrity and to move quickly towards self-government. Within the context of policing as an institution, it is essential that we address how we can develop strategies to restore the balance in a relationship that has been at times either negative or indifferent to the needs of aboriginal people. Most contacts between aboriginal people and the police are negative. We have little room for mutual understanding and respect.

Against this background, even the special legislative recognition of the position of a first nations constable must be looked at from two perspectives and two very different vantage points. On the one hand, the first nations constable position does and will allow for interested aboriginal people to gain entry into the police employment system. In this light, the position is an employment equity opportunity and can be viewed as such. The position may also be viewed as a means to strengthen the opportunity for aboriginal people to conduct more of their own affairs in matters of justice. On the other hand, the first nations constable position could operate as a systemic barrier to aboriginal people accessing traditional police positions if it is used to stream interested candidates. That must not be allowed to happen.

The Task Force on Race Relations and Policing noted in its report the shortcoming of any focus in its terms of reference on the issue of aboriginal people and the police. The human rights commission focused its remarks on aboriginal people and policing when we appeared before the task force, partly to illustrate the need for a comprehensive review of this matter, not as an aside to the issue of race but rather as the focus of an extensive, independent inquiry. We are concerned that the new act, in its recognition of the position of first nations constable, runs short of the special needs that the members of Ontario's first nations would require.

While we believe that the proposed act does make major steps in the direction of progressive policing for the 1990s for most of the citizens of Ontario, it is our strong recommendation that a task force with predominantly aboriginal representation be struck immediately to prepare recommendations on the subject of policing and aboriginal people.

In conclusion, the role of the police officer cannot be considered apart from the society in which he or she must serve and protect. Emerging social issues and changing demographics re-

quire a constant re-examination of the duties and responsibilities of police officers. Following from the recommendations of the Lewis task force, the proposed act attempts to come to terms with this reality. We applaud that, and we urge you to consider our suggestions and those of the many other deputants before this committee to strengthen the legislation. Thank you for the opportunity to appear.

The Chair: Thank you, Ms Frazee. We do have a number of committee members who have questions. We have about 15 or 20 minutes for questions, which I think will leave enough time for each caucus. First, Mr Curling.

Mr Curling: Again, your presentation is precise and direct. In my constituency office, I get many concerns about human rights issues, and people want to address their concerns through the commission. Somehow, they have cold comfort in the fact that when they present their case, it takes a tremendous amount of time to be heard. They are extremely disillusioned that while we set out processes, organizations and institutions to deal with these things, it takes such a long time. I presume the lawyers and the justice system say that justice delayed is not justice done at all, so many people who have come to complain about police actions and would like to pursue it through your commission feel that it is no use. Even when the time comes around, their mind, their story, their emotion and the pain they have felt, which would help the situation very much, would have been lost.

Since you have taken over—and I must commend you for the direction in which you have taken the commission and where it is at today—do you have enough facilities, equipment, resources to do so? Because it is no use; we sit here in hearings from time to time and talk about the inadequacy, from a human point of view, of society. Governments sit back and send you ahead and ask you to form these groups, and then there are no resources with which to carry out the duty. Do you have enough resources, when these reports come to you, to deal with them, even with this great backlog we have today?

Ms Frazee: Not to be glib, I wish I had brought my list of wants and needs, if I had known this might be an opportunity to present it. Clearly, we would be happy with more, but I think it is more important perhaps from my perspective to say that we are doing the very best with what we do have. I think we are orienting ourselves to a much more strategic approach to enforcement of human rights legislation, and that includes a number of proactive and preventive measures. We are also dedicating tremendous effort, expertise and perseverance to correction of problems of delay in the handling and processing of individual complaints which have been building up over many years and which clearly will take some time to correct. We begin to see progress. It will be some time and it will take, in the fullness of time, more resources to accomplish that goal.

Mr Curling: I make reference to page 7 of your presentation, in which you talk about mandatory employment equity. You commend the government and Bill 107 for taking this initiative. A couple of days ago the Police Association of Ontario presented its presentation here and it touched upon employment equity. I have since spoken to the president and I am convinced that he too feels that employment equity is a good thing to have. However, in the context of it, I felt a little bit of discomfort with the words. I know English is a very difficult language, when it is written or when it is spoken. Most of the time the same words come out differently. I have a feeling that while governments, politicians, interest groups and everyone else talk

about employment equity, there seem to be different definitions for it. What is the definition, do you feel, of "employment equity"?

Ms Frazee: Fortunately, I can provide to the committee the benefit of our living expert on employment equity, and that is Anita Dahlin. I would say just as a way of introduction that employment equity is an elaborate and a highly developed response to historical patterns of disadvantage and exclusion. It is a strategy to counteract the damaging effects of that history, but I think perhaps Anita would provide a little more of a detailed definition for your interest.

1040

Ms Dahlin: If you would like to think about it as an outcome; we have at least one Supreme Court decision that talks about the fact that if there were no discrimination, it would be reasonable to see the various groups that are represented within the population represented to the same degree in our public institutions. That is the outcome that we would desire in employment equity in policing. When we have said that we would like to see detailed regulations, what we are talking about are standards against which the employment equity plans that are required can then be evaluated by the chief of police and the various levels of authority that are in power in the proposed new act to evaluate and compel employment equity from the different police forces.

The kinds of initiatives that I think we would like to see included would be the sorts of things like executive commitment from the chief that communicated a general communication strategy, publication within the force and consultation with the various groups within the community and, to the extent that they are represented within the force, consultation with them, consultation with the police association, a program of outreach recruitment, special training initiatives for the groups that are designated to be the beneficiaries of employment equity, some structural support such as child care, family leave, flexible working arrangements, those kinds of things and, finally, goals and timetables; in other words, a numerical result standard that would be reached within a specific period of time and monitored. If there is a reason why that standard has not been met, it can be explained and modified. Those are the sorts of things we would like to see in detailed employment equity plans and regulations.

Mr Curling: Just a quick comment on the expectation of what employment equity will do. I feel that this committee has to sit down to find out really what is employment equity and what is expected of the definition, because somehow I feel there is confusion about what is employment equity.

Mr Philip: You make the point that on your own initiative you can inquire into any problem concerning human rights. The Ombudsman has the same power in Ontario. Do you see some contradiction in the fact that under this act, which sets up a police ombudsman if you want, there is no such right?

Ms Frazee: You are speaking of the initiatory aspect of a public complaints commission. Yes, I think I referred to that in my presentation and I think it would be helpful and appropriate for the public complaints commissioner to have the discretion to initiate complaints and to initiate investigations which are broad-based.

Mr Philip: When someone has a complaint regarding human rights, be it in private enterprise or government, and he goes to you, you have an independent, outside investigation at

the earliest stages. The same thing happens for even the most minor complaint against a public servant that may be launched in the Ombudsman's office. In this bill, the initial complaint, except where it is seen as being terribly extraordinary, is done by the police themselves.

Do you see any reason why you should have this contradiction, that someone who complains that a public servant has been rude goes to the Ombudsman and can have that dealt with independently, and yet someone who may be complaining about a major incident of racism will have that investigated by the very body that is accused of racism itself?

Ms Frazee: My first instinct is that I am not sure I have the expertise to comment in the context of a comparison with the Ombudsman's office and the new act, so I must shy away from the comparison that you have drawn. What I can say, certainly, in response to your concern, or what I hear is the underlying concern in your question, is that there not only needs to be fairness and independence of an inquiry but there needs to be, clearly, the perception of fairness and independence. So to the extent that there is or has been communicated to this committee a perception of unfairness—

Mr Philip: Thank you.

Mr Kormos: I would like to talk for the briefest of moments about police as service providers rather than as employers. In my experience, and I appreciate it may not be representative but I am fearful that it is, persons with disabilities often find themselves shortchanged when it comes to being the recipients of police services. Let me illustrate briefly. Recently, in St Catharines, after complaints were made of assaults upon residents of an unlicensed rest home, the police investigated and indicated that there may well have been assaults but, after all, they were only for correctional purposes. These people, who were seniors, were people whose behaviour was oftentimes childlike. These are people with disabilities and various disorders.

Another instance was one where a victim was a person who could communicate only with Bliss symbols. The police officers investigating had a great deal of difficulty understanding how articulate a person with Bliss symbols can be and disregarded that person's potential as a witness in a court proceeding. Therefore there was no effective follow-up on a criminal investigation of assault.

As I say, I am fearful that those two instances which I am personally familiar with take place throughout the province, not because of malice but because of a sincere lack of understanding. That is something you touched on but you have not addressed, and I do not think anybody else before this committee has specifically addressed that. Can you comment on that and what has to be done to make sure that persons with disabilities are not shortchanged, be they victims—and I guess I am speaking here in terms of the criminal justice system and their contact with it—be they potential witnesses or in any other regard?

Ms Frazee: Thank you for the opportunity to speak to this issue. Certainly, my information would confirm that persons with disabilities are victims of criminal activity to a disproportionate degree. I would certainly emphasize from the comments that you have made the tremendous and fundamental importance of appropriate sensitization, exposure and training of police officers to appreciate the special needs of persons with disabilities and to break through many of the stereotypes that

are quite naturally held by all members of society who have not had the benefit of exposure or training in sensitization.

As I have said in my submission, the aspect of training is of fundamental importance to the success of this initiative and to the leadership of this province in this critical area. I feel with some concern, also in what you have said, that this committee may not have heard from the community of people with disabilities in the context of the amendments or of the proposed act. All I can say in the very short time that I have is that it is clearly of fundamental importance that the committee, as you well know, hear from all of the groups that are most directly impacted by this legislation and by its implementation and I would urge you to seek appropriate consultation with the representatives of that community, with the experts of that community and others who may also have been deficient or missing from this process.

1050

Mr Sterling: Thank you very much for coming. I was very much interested in your brief. Your mandate as a human rights commissioner goes across all of the province of Ontario. I was wondering whether or not you thought this act is appropriate for all areas of Ontario in terms of putting the police complaints commission in place right from one end of the province to the other.

Ms Frazee: I may not hear the subtlety of your question, and if so I—

Mr Sterling: I am not trying to be subtle. Let me go further. I am not trying to lay any trap or anything of that nature. For instance, the problem that this legislation may be facing may not be a problem that is faced in other parts of the province.

On page 9, for instance—I am going to exaggerate the point—you say, “We strongly advocate legislating that race, aboriginal and ethnic relations units be established within every police service in Ontario.” There are police services in Ontario, in the area that I formerly represented in Grenville county, which have two police officers. Unless you were able to capture a very unusual individual or set of individuals, you would not be able to legislate that kind of thing.

I understand that you can legislate and take care of that kind of problem, but some of the concerns of the small communities that do not have an opportunity to make their presentations to this legislative committee, either because they do not have the resources or because this committee is limited in not travelling across the province because of this government’s great concern in ramming this piece of legislation through before another election—it is leaving some of those communities without a say in it. My question is, is this act really appropriate for all of Ontario? It may be appropriate for Metro Toronto, I agree, but is it appropriate for Cardinal, which has two police officers, or Kemptville, which has four police officers, or Prescott, which has 14 police officers?

Ms Frazee: I would respond first of all by saying that the act overall is indeed appropriate to the circumstances and the time in history and the critical state of community relations within the police. As I have said, and I certainly would emphasize, there ought to be recognition within the act of the necessity for an emphasis on community policing in every community. The training in the areas of racial and community relations and harmony must be applied across the board to every community.

Mr Sterling: The second question I have is this: The previous witness from the Black and Caribbean Liberal Association said he did not believe the situation in Metro Toronto was as bad as it is being portrayed at this time. In reading the report by Raj Anand, who was your predecessor, I keep getting anecdotal evidence regarding this whole problem. Your commission, I believe, has made a ruling in the past as to the kinds of questions and the kinds of data that can be collected about different racial problems. I guess one of the problems I grapple with as a legislator is trying to draw the right conclusions with the right facts or background in front of me.

Mayor Eggleton, when he was in front of the committee, for instance, suggested to this committee that every time a police officer draws a gun from his holster, in the report of the police officer he should identify the ethnic or racial background of that individual. Do you agree with that kind of approach, and if not, what would be the objection?

Ms Frazee: I think we have to be somewhat wary of data gathering in the sense in which I understand your example to point. I think we have to be very concerned about data gathering where there is not absolute clarity and acceptability of the purpose to which that data will ultimately be put. The commission, certainly, in our guidelines on special programs outlines circumstances in which it is desirable to collect data, specifically in the design and implementation of employment equity. There are other areas where the collection of data is and can be quite inappropriate and in fact offensive to the purposes of the Human Rights Code.

On individual circumstances the commission could make particular decisions, but the thrust is that the purpose of the data must be known and must be in keeping with the upholding of the spirit of human rights, the advancement and promotion of equality, equal treatment, equal dignity and equal respect for all persons.

Mr Sterling: Would it be wrong therefore for the police to collect data or publish data on the number of ethnic groups that were charged with individual or different kinds of offences, or how many were stopped, etc, or charged or convicted?

Ms Frazee: I would say that the institution collecting and putting forward that kind of data would be put to a very stiff test by the commissioner, that the purpose of that gathering and of that publication was a legitimate one. I am not at liberty to prejudice the commission’s determination of a situation, but I would say that it would certainly be incumbent upon the force to demonstrate a purpose that does not come readily to my mind.

Mr Sterling: Systemic discrimination is extremely difficult to establish and to prove. How can we get at that problem without properly collecting data?

Ms Frazee: Certainly in the context of a systemic analysis that looks at practices and patterns, I think then you have a higher purpose, if I may say so, which is consistent with the terms of the Human Rights Code. So if I left you with the impression that indeed it cannot be collected in the context of an investigation, that was certainly not my intent. If time permits, I would ask Anita Dahlin to speak to the question of systemic investigations, with your permission.

The Chair: That is a very interesting line of questions and I think we can permit several more minutes on it. However, using my discretion as the Chair, I am going to also give Mr

Philip an extra couple of minutes afterwards, because he has indicated he has an additional question. Please proceed.

Ms Dahlin: In the guidelines on special programs, which are essentially not for release yet but the commission has approved them, they have dealt with data collection in the context of a legitimate special program. Now a special program under section 13 of the act is a program that is designed to relieve or is likely to relieve hardship or disadvantage for a particular group. That can occur in the context of a service or in the context of employment or any of the other social areas covered by the code.

If the police, for example, were interested in improving their service to various minority communities, they might be able to justify the collection of data in that situation, in that context. But as the chief commissioner says, they would be put to a very high test because so far what we have heard about the data collection has really been more in defence of a position that has been taken as opposed to some desired intention to improve services. So that is the general thrust of the public position the commission has taken so far and is prepared to take on data collection.

In the context of a systemic investigation, if I were leading an enforcement team to look at a particular issue, we would be trying to assess statistically what happens in certain situations. If it were an allegation that the police were drawing their guns more frequently against members of certain minority communities, then I think we would try, if there were records, to look at them and then we would try to identify against whom the guns were being drawn. Without data being kept, that would be very difficult. But again, at this very difficult, tense time in our history with the police, for us to recommend outright, "To aid systemic investigations, we now want you to keep those kinds of statistics," I think is something that would have to be undertaken through a major consultation with the communities involved.

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Mr Philip: This bill, on a positive note, does do something in terms of time. I guess the greatest complaint I hear about the Ontario Human Rights Commission is that people get frustrated and do not get a decision out of you. In the case of the Ombudsman, we dealt with the problem because we have a standing committee on the Ombudsman which was able to come to grips with that, and thanks to Dr Hill some real initiatives were taken to deal with that problem. We can also investigate the quality or the process used by the Ombudsman using that Ombudsman committee.

This bill sets out a procedure of specific times in which certain people have to do certain things. Is there any further need to deal with that problem of justice delayed is justice denied? Is there a need, as the Canadian Civil Liberties Association has suggested, to have an independent auditor or some other system of monitoring how this process is working, not to second-guess the decisions, which I do not think is our role as legislators, but to make sure that the system and the process are working efficiently?

Ms Frazee: If I understand your question correctly, I think I can certainly say with some emphasis that it is essential that the delivery of the various aspects of the act and the regulations that will be forthcoming will have to be assessed, and the effectiveness of that delivery and the expedience of that delivery are part of that assessment. The assessment itself will certainly be more credible if it is conducted independently. I think it is quite

safe to say that the commission will be watching with interest as things proceed in this area. Certainly the community groups will be watching with interest, and I would expect that the Ombudsman's office will be watching with interest.

Mr Philip: If the new Ombudsman Act goes through, the Ombudsman would not have any jurisdiction over this, would he?

Ms Frazee: That is a question that again takes me outside of my area of expertise.

Mr Philip: Any more than he would have jurisdiction to examine whether your office is operating efficiently or not.

Ms Frazee: Your point is well taken.

The Chair: Thank you very much for your very useful comments and brief. I know the committee will look at them very carefully and give them serious consideration.

I just want to summarize for the people who are here that we have three more submissions, first from the Urban Alliance on Race Relations, then from the Canadian Jewish Congress and then from Maria and Theodor Mag. If we adhere to the time strictly, that will take us to about 12:30, just so that everybody knows where we are going.

URBAN ALLIANCE ON RACE RELATIONS

The Chair: Our next presenter will be from the Urban Alliance on Race Relations: Fazela Haniff, who is the co-ordinator, and Wilson Head, who is the past president. We have about 30 minutes so if you want some time for questions, please shorten up on your submission a bit. Please proceed.

Dr Head: Our brief will be read by our co-ordinator, Fazela Haniff, and I will speak to any questions afterwards, if that is all right with the committee.

Ms Haniff: I will be reading from my notes, so excuse me for not looking at you when I am reading.

From its inception in 1975, the Urban Alliance on Race Relations has been committed to promoting a stable and healthy multiracial environment in the community. As an organization, we have repeatedly over our 15-year history presented a number of briefs to Legislature committees, held conferences and met with officials and the community in the interests of achieving justice and equity for all who live and work in Metropolitan Toronto, irrespective of race, colour, ethnicity, etc. We regret that much of what has been recommended has not been implemented.

In response to Bill 107, there are many areas we could address. However, we shall limit our input to those areas that we feel can be enacted within a short time and yet have long-term benefits. We also regret that the speed with which Bill 107 is being examined did not result from the government's priority agenda, but rather from yet another unfortunate police-minority confrontation and shooting.

The Race Relations and Policing Task Force in its 57 recommendations last April provided a comprehensive framework on which the government could have acted. The recommendations were specifically related to the six terms of reference and they are as salient today as they were last year.

We wish to focus on these specific areas: a civilian investigative body, the nature and kind of training police officers receive, and the regulations concerning training and use of force. We know that if these areas were adequately addressed, then concerns about community race relations would be less

critical. In addition, employment equity measures could be attended to in a more positive atmosphere.

The first item, as I mentioned earlier, is the civilian investigative body. While the public complaints commission does its job well, the police in fact do the first investigation. Whether or not the police findings are fair and just is not the issue. Many people will not file complaints knowing that the police do the investigation. It is a given in law that justice must be seen to be done, and the present situation does not allow for that perception, especially by members of minority groups who have experienced unjust treatment at the hands of the police. The recommendations of the task force dealing with this issue are ones we support, as we indicated in our brief that we submitted then.

Under training, the Urban Alliance on Race Relations supports the task force recommendations for a civilian investigative body to administer public complaints without interference from the police.

As professionals, all officers need to be trained to provide the kind of service that is responsive and sensitive to the particular needs of the community the force serves and protects. Given the diverse racial and ethnic composition of our province, particularly in the metropolitan areas, and given that the forces are almost homogeneous—that is, white males in comparison—the need for race relations training is essential. To date, the training that officers have received has not addressed adequately how racist and stereotypic attitudes are formed and maintained. These attitudes influence behaviour. Race relations training must be provided to all officers irrespective of rank by people who have a sound knowledge base, expertise and experience. The recommendations in the task force report speak clearly to the need for training and the kind of training to be given.

Items not addressed in this act are the circumstances pertaining to the laying of criminal charges with respect to the criminal misconduct of an officer, and how one should initiate a complaint. Also not addressed were the conditions and limitations on rehiring a police officer who has been dismissed or ordered to resign from the police force following a finding of misconduct.

On to the issue of force: Clearly the ambiguity arising from the requirements of the Criminal Code and the regulations in the Police Act concerning when to use deadly force, that is, to shoot, has resulted in untimely deaths of citizens of Metropolitan Toronto. The task force recommended that police officers be limited in the use of deadly weapons in the fleeing offender situation, and also to restrict the use of deadly force to situations in which the person fleeing poses an immediate threat of death to police officers or others. It also wanted to amend the regulations so that police officers may not draw their weapons except when the officer believes it may be necessary to protect lives.

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Officers must be trained to use other means to control confrontational and disruptive civilians. The use of a deadly weapon must be a last resort.

The alliance supports the recommendation that was made by many of our other colleagues that officers must file a report whenever a weapon is drawn or removed from the holster.

We are pleased that the government is now overhauling the Police Act in order to make this regulation appropriate to the requirements of a complex society. These recommendations

should, we feel, enhance not just the substance of the bill but affect positively the nature of policing in our province.

The Urban Alliance on Race Relations appreciates this opportunity to make this submission to your committee as testimony of our continuing commitment to promote a stable and healthy multiracial environment in the community and in this particular instance to continue our work with the police force. Our record stems back since 1977, when we and the social planning council started one of the first liaison committees to work with the police. The urban alliance, as you know, is always prepared to work with the Solicitor General and the Metropolitan Toronto Police in order to achieve a society where hostilities and polarization will not interfere with the nature of service police officers provide to the public.

Gee, I finished in less than my 15 minutes.

The Chair: Thank you very much; we appreciate that. Do any of the members have questions?

Mr Philip: I am surprised that Dr Head did not have something to say, but I am sure that we will give him some opportunity to share his concerns, which have been so helpful to committees and to members of the Legislature over the years.

At the risk of making an error, it seems to me that it was Mr Lymer, the president of the police association, who was on CBC radio this morning saying there cannot be much of a problem because there are not very many complaints launched with the Metro police complaints commission.

In contrast to that, you are saying that because under the old bill, and indeed under this new bill, which uses as a model the system of the Metro police complaints legislation, under both systems the police investigate themselves at the initial stages, people do not have faith or confidence in the system. That was a major criticism that you made in 1977 and 1981 and that both opposition parties made at the time when the Conservatives put in the legislation, and now we see the same thing back under a Liberal government.

Is it your feeling that a majority or a percentage of complaints that are real complaints are not filed because of the belief that there will be some intimidation since a police officer will be investigating?

Dr Head: I think that is quite true, because we have had records of that already. Personally, I would be hesitant to file a complaint myself, because I know that the police have the first 30 days to do the investigation. I would much rather see a situation exist in which I do not have to face the police again at all if the complaint is against the police. I think that is a key issue.

I would say if we are going to continue what we have now, we are not going to get very many complaints, because most people will not want to go through that first 30 days with the police doing the investigation and the civilian coming in only after the end of the 30 days. I view that as a major mistake. We would have preferred seeing the kinds of things we talked about here in the brief, that the civilian complaints bureau handle it from the very beginning.

Mr Philip: In your experience—not just with the visible minority community, but you have been active in the civil rights movement in this city, both in the city and academically, for a number of years—would you say that would be the feeling of a number of people from the white community who may have come from either Communist-dominated countries or Latin America, where there would be fascist-dominated police forces; that it would not be exclusively a concern of the visible

minority community, but it would be a real fear shared by many of the people in the so-called white community?

Dr Head: I think so. I think we tend to forget sometimes that the police force is a force, which means a system of military organization. The police carry guns. Frankly, I myself would be a little bit apprehensive if I were stopped by a policeman carrying a gun.

I would like to see us go even further. I think the time has come in our society now when we ought to look at policing from the very bottom, in terms of what its role should be in a modern society. Obviously, when it was founded back in the 19th century, in the 1840s, by Sir Robert Peel, most of its members were then officers of the army. That has changed slowly, but society is not what it was in those days. The kind of policing we need today is quite different from what we needed in 1840. I would think the more civilians you have, the more people out of uniform, the less likely it would be to have people reluctant to approach them and ask them to investigate a complaint.

Mr Philip: Would it also not be the case, knowing your knowledge of the history of social organizations, that back then the major belief was that government was there primarily to protect property, not to deliver services? The church and other people were there to deliver services. Now the police have much more a role of not just protecting property but also of protecting people's rights, of delivering other types of what I would call social services, which I can understand puts them in a much more difficult position. Police officers who are friends of mine have role problems. One minute they are expected to be social workers, the next minute they are expected to be enforcers of people's property rights, and the next minute they are supposed to be protectors of little children and so forth, which is a very difficult job to do.

Dr Head: It is very difficult.

Mr Philip: If the role has changed, does the complaints procedure certainly have to change?

Dr Head: Yes, I think that is quite true. I would say that we ought to de-emphasize the military role of the police. We ought to de-emphasize the force role, the carrying of guns and this kind of thing. In England, as I understand it, the police still do not carry guns, on the whole. I understand they have some special units that carry guns, like we have our special unit here, but the ordinary bobby, as I understand it, still does not carry a gun, and as far as I know, they still do a good job of policing, for the most part.

Mr Philip: You have talked a great deal about training. Of course, training is only contained under the regulations section and we do not know what kind of training is being proposed any more than we know what the standards will be, and all the other really essential issues that most of the briefs address themselves to are contained under regulation. Would it be your opinion that there should be a review of this legislation, with the regulations, within a year or two, to have public input from the police and from organizations such as yours, so that we may have an evaluation of such matters as training and the other regulations which are contained under section 133?

Dr Head: Yes, I think so. I think any training ought to have monitoring. I think there ought to be some indication of where the person is before the training begins and some indication afterwards so that you get some sense of how much movement has occurred as a result of the training. We have a lot of

evidence suggesting that some training does no good whatsoever and that some training is even counterproductive, so the person is worse off after the training than he was before.

I think we need a monitoring mechanism so that one can do it. Now, that would require, of course, some skilled people to do that. You cannot just have ordinary officers doing that kind of thing. It requires psychologists, teachers and others who have some understanding of testing and this kind of thing. But it seems to me that any program put into place has to be monitored at the end of a certain period of time, perhaps a year or two years, and ought to be looked at in terms of re-evaluation. This is what schools and universities do. You get a grade, you get a mark, you get a promotion, you get something of this nature, but there has to be some kind of mechanism to provide that monitoring and that evaluation.

Mr Philip: My feeling is that within a year or two there should be an independent audit of this act and the audit reported to a committee of the Legislature—it could be the standing committee on public accounts; it could be one of the other committees—to find out whether there is value for money in this act, whether objectives are being met, and public hearings, probably, to find out exactly what the public and the police think of the working of this act. Would that make some sense to you?

1120

Dr Head: Yes, it makes some sense. I am not sure what the time period should be, because it does take training some time to, shall we say, take, for people to change old attitudes and develop new attitudes. I think it would be debatable what the time would be. It could be six months, it could be a year, it could be two years, three years, whatever—not too long—but I believe that this kind of mechanism needs to be in place, yes.

Mr Curling: I am going to follow up on what Mr Philip said in respect to training. Other presenters before us have indicated that they do not see why training could not be done in the community colleges. They used a very good example of this. They said that in the past nurses were trained at the hospitals and they had their own hospital nursing schools. Now that the nurses are being trained at community colleges, working in conjunction, of course, with the hospitals, the quality of nursing as a whole has improved, the profession itself.

Do you see any problem? At the moment, as a matter of fact, there are law enforcement courses that are being taught at Durham and Seneca College and various community colleges. Do you see the necessity at all to have a police college continuous in that way, or do you see it as a benefit that this training be done in the universities and the community colleges?

Dr Head: I think the community colleges would probably be a better place to do the training because they are more focused upon practical problems—not academic problems, but more practical problems. But I think any training program has to have at least two components, one being the academic aspect of it, the second being the practical aspect. I think some community colleges are doing that now to some extent. I understand it is on a very small scale, but certainly the community colleges which already exist and have the resources could do a job there, provided, of course, they hired the right kind of teachers.

In this field, where you talking about emotion—after all, it is not just skills, it is also attitudes—one has to get people who have background experience. It could be a joint thing. It could be a matter where the police were brought into the community

college and vice versa to interact. I have not thought about where the best place would be, but certainly in terms of practicality the community college would be a better place, in my view, than a police college would be.

Mr Curling: The concept of community colleges is that they do go out and get expertise from companies, which are so much more involved, to do the teaching there. They do not necessarily have to go up to teachers' college and all that. It has worked excellently in the past.

Most of the training that we speak of in training of police after we have recruited the policeman seems to me to see if we can make the best of that individual. Do you feel that enough is done? I would classify it as a psychological test to be done to find out who we are getting in the police force: Is that individual too far gone to make a good police officer? We are satisfied just if he has a certain level of education and if he is live and tall, or if she is live and tall, that is sufficient. Do you think enough psychological testing is being done?

Dr Head: I am not quite sure right now. I am not up to date on it as much as I was four or five years ago. I would doubt that enough is being done.

I realize that that difficulty is endless. Anyone who has had the background which you have had and which I have had in testing realizes that a smart person can fool the tester by simply answering the questions he knows he is supposed to answer. He gives the answers he knows you expect. On the other hand, there is something there and one could find some use as long as it is not used too strongly. In other words, like the IQ test, it has some value, but it also has great limitations. I think you would have to use that testing in connection with other forms of evaluation as well.

The Chair: Thank you very much, Dr Head and Ms Haniff, for your brief and your comments. I am sure they will be very useful to the committee.

For purposes of the committee members, I want to indicate that we do have an additional presenter this morning who we thought was not going to be here, Bev Salmon from Metro council, so I am going to ask the clerk to bring in a few sandwiches and snacks so that we can nibble on them while we are proceeding, because we probably will not finish until a few minutes after 1 o'clock, unless there are any objections from the committee members.

Mr D. R. Cooke: Yesterday we got much better food than that.

CANADIAN JEWISH CONGRESS

The Chair: The next group is from the Canadian Jewish Congress. Introduce yourselves and please proceed. We usually provide 30 minutes per delegation.

Mr Satok: Thank you. My name is David Satok and I am the chairman of the joint community relations committee of the Canadian Jewish Congress, Ontario region. This is Louis Lenkinski, a vice-president of the Canadian Jewish Congress, and Bernie Farber, our director of research.

The Canadian Jewish Congress, Ontario region, serves as a representative voice for Ontario's Jewish community. As such, we have appeared before numerous legislative committees, both provincially and federally, to speak on provincial and national issues.

Police and minority community relations are of interest to the Canadian Jewish Congress. We are comfortable addressing

this issue, because we ourselves represent a minority community which has had extensive contacts with a number of police forces in Ontario. Our relationship with the Metropolitan Toronto Police Force has a long and harmonious history. We have found this force to be professional and sensitive to the special needs of our community, which has always been subject to the threats and experience of anti-Semitic victimization from the more extreme racist elements in our society.

Further, the Ontario Provincial Police, as well as the police forces of York and Peel regions and from elsewhere in the province, unhesitatingly have provided assistance on many matters of security and other issues of concern to Ontario Jews. In Metro, York and Peel regions, specific units have been created to work together with various ethnocultural groups. This is a source of comfort to vulnerable communities and we commend the police forces for this initiative. Their help has been invaluable to us.

As well, the Canadian Jewish Congress and the special street crimes unit of the Metropolitan Toronto Police worked arm in arm last year bringing to justice those responsible for the defacing of a local Jewish synagogue and day school. It was clear to us that the relationship between our professional staff and the police officers involved in the investigation, and the co-operation from police leadership, resulted in the ultimate conviction of the vandals.

On a province-wide basis, a joint task force of the Ontario Provincial Police and Metro police exists to combat hate material. Most recently, Jewish communities across Ontario have worked with their police forces in order to try to stem the tide of Jewish cemetery desecrations. These police forces were most accommodating and they have our community's appreciation.

The Canadian Jewish Congress has made it a point as well to work co-operatively with the myriad of minority community organizations in this city and province. One of the communities with which we have developed a relationship is Toronto's black community. The Canadian Jewish Congress, with the Jamaican Canadian Association, has been involved in black-Jewish dialogue. In the last eight months, our communities have met on a number of occasions to discuss issues in common. It is in this light that we have gained a special insight into the black community's perspective on police and visible minority relations.

There are concerns. What has emerged as an important element in allaying some of these concerns is a civilian review board for police. The call for such a mechanism has been echoed by other communities and organizations.

We must all work together to ensure that Ontario police forces are perceived to be there for us all. With this in mind, the congress makes the following recommendations to certain sections of Bill 107:

1. Section 87 deals with investigations by the public complaints commissioner into disciplinary matters. We believe that it is essential for the initial investigation on disciplinary matters to be carried out through the offices of the independent public complaints commissioner. This would allay any concern over the perception that there exists a potential for conflict of interest when the police are in a position of having to investigate themselves. Surely one can understand that members of communities who have already voiced concerns of police investigating police may be very reluctant to file complaints if the system is not changed and made more independent.

2. If negative perceptions about police-minority relations persist, to reassure both the police and the community a

monitoring mechanism should be established. It should be independent of any police force, under the jurisdiction of the public complaints commissioner and operate without the necessity of a complaint being filed. Clearly, once a complaint is filed, one has the makings of a quasi-judicial process which may not allow for more general examination of issues.

1130

3. In regard to part VII, section 112, of Bill 107, dealing specifically with the special investigations unit, we would urge the following for consideration. We note that the special investigations unit deals with investigations for criminal law enforcement purposes. We further note that subsection 112(2) states:

"(2) The unit shall consist of,

"(a) a director, who shall not be a police officer or former police officer, appointed by the Solicitor General."

We commend and support this recommendation but suggest that it be taken one step further. It is our belief that all members of the investigations unit dealing with criminal matters should not be police officers who are presently employed by any police department in the province. This, once again, speaks to the issue of perceived fairness and the need to ensure that police are not investigating police.

4. Further, it is our view that in order to maintain the complete picture of an independent unit, the special investigations unit itself be housed outside the Ministry of the Solicitor General. Clearly it is the Solicitor General's office which has ultimate responsibility for police forces in this province. By housing this unit within the Solicitor General's office, there may be a perception in the general community that the connection to the ministry may hamper a proper investigation due to the relationship with the very police forces that are accountable to it. We do, however, understand the need for public accountability and would therefore recommend that for criminal matters the special investigations unit be placed with the independent public complaints commissioner.

We have confidence in the abilities of Ontario's police forces and in their commitment to the important principles of bias-free and professional policing. The tragic events of the recent past, however, raise doubts in the minds of segments of the community that need to be resolved. We do not believe that the situation is beyond repair. It is our firm belief that with goodwill, common sense and a desire to promote all that is good in society, police forces, minority communities and the public in general can work together to provide the necessary mechanisms that will best serve the people of Ontario.

Mr D. R. Cooke: I just want to make one comment, that it is an excellent presentation. It has a number of interesting suggestions. On page 3, when you deal with section 112, I am pleased to inform you that the Solicitor General earlier this week tabled with us a proposed amendment for our consideration that deals exactly with what you are saying there. It reads, "A person who is a police officer or former police officer shall not be appointed as director, and persons who are police officers shall not be appointed as investigators."

Mr Satok: I am glad that the Solicitor General is psychic.

Mr D. R. Cooke: He is psychic and very sensitive.

Mr Curling: Thank you for your presentation. I just wanted some clarification. I may have lost it in my translation by reading and listening to you. You mention that the need is for a civilian review board for police, but lower down, in point 1, on section 87, you speak about an independent public com-

plaints commissioner. Are there differences in that? You talk about "public" meaning somehow open, or does "civilian" mean a specific individual? Is there a difference that you are speaking of?

Mr Satok: I will let Mr Farber deal with that.

Mr Farber: I think there are a couple of issues that have to be addressed on that matter. I think we are dealing with two very different issues. We are dealing with disciplinary matters first and criminal matters second. As it stands now in terms of disciplinary matters, as we understand it, if a member of the public has a concern about a method by which he or she has been dealt with by the police, the initial complaint has to go forward through the police. Then, if satisfaction is not found, at that point they can take it through the public complaints commission. We are suggesting that that step be cut out.

There are concerns in regard to, again, a perception of fairness and that members of the public be allowed to go directly to the public complaints commissioner or to lay a complaint without having necessarily to go to the police force directly, in disciplinary matters. The special investigations unit is something completely different because it is going to be dealing with criminal matters. Once again, we feel that in order to ensure an air of fairness and independence, our suggestion is that it be placed outside the Ministry of the Solicitor General but be housed in the public complaints commissioner's office as a means by which public accountability can be maintained and ensured.

Mr Curling: Yesterday, in the presentations of other groups, they insistently relate that sometimes the behaviour of the police has to do with the attitude or the response of the community and it leads to criminal actions. They feel that you cannot separate them because the attitude of a policeman and the approach to the community triggers a very bruising relationship, and if you separate them you will never come together to find what is the real problem. They spoke about how they associate certain crimes with blacks and it is because of the attitude of the policemen, but would you not think that separating that in those two cases would not really come to the real issue of the cause?

Mr Satok: What are you suggesting, then?

Mr Curling: When it comes to disciplinary action of the police, you say it should be in a separate area. Is that what you are saying here?

Mr Satok: We are talking, I guess, of attitudinal complaints, treatment complaints; we are not talking of criminal issues. If the community feels the police are not treating it fairly or have not been responsive, we are saying that the police should not investigate that kind of complaint but the outside body should investigate that complaint.

Mr Curling: But on his behaviour, on the attitude of a police officer on his job, who would do that investigation?

Mr Satok: The public complaints commissioner.

Mr Kanter: Mr Satok, thank you and your colleagues for a good brief and, I must say, a very concise brief. I appreciate that.

I wonder if I could ask about the second recommendation you make, about a monitoring mechanism. I am not so clear on how that would operate. I note that the bill contains a number of provisions to increase the monitoring of police by the Solicitor General and by the municipal board, to try to clarify their roles.

I am not too clear on the monitoring mechanism you are suggesting, how it would work, what it would do.

Mr Farber: We are not exactly sure how it should work either. We know one thing. Basically, there are people out there who, for whatever reasons, will not come forward and issue complaints. Even if there is a public complaints commissioner who is totally separate, there are people who just do not have the abilities or the drive to do that type of thing.

We are suggesting that at least there should be a body, a mechanism of some sort, that if there are perceptions, valid or invalid, in the general community—and they can be on a number of issues; they can be on a police disciplinary matter, they can be on race relations matters—we want those perceptions dealt with quickly and in a way that gains some trust in the community. We are suggesting that either the public complaints commissioner have that right to initiate—if you want to call it investigations, that may be one way of doing it—without a complaint mechanism or to take a look at monitoring, on an ongoing basis, the kind of work that is being done vis-à-vis the Police Services Act.

We heard recently—I believe it was Mr Philip who made the suggestion—that possibly the whole thing be looked at after one year. That is one way of doing it. If the public complaints commissioner feels, for example, that there are very negative perceptions in the community right now, he or she should have the ability to initiate some research into it and come to some conclusions, along with the police and the community, for getting those issues resolved quickly and forthrightly.

1140

Mr Kanter: Mr Farber, I think that is helpful. As I understand it, you are suggesting some sort of liaison mechanism that could be carried out by the public complaints commissioner or perhaps—and I just raise this as a question since we are trying to look at some alternatives here. I know Mr Sterling has frequently raised the point of how this bill might impact on different communities. In some communities—Thunder Bay, for example—the police force has set up a police-community liaison committee. They have a lot of interaction with the native community in that location. They do not have the same population mix we have here in Metropolitan Toronto. Are you suggesting that you see a need for some ongoing group to discuss police-community relations that does not deal particularly with specific complaints but rather with concerns of particular communities or that perhaps run across a number of communities?

Mr Farber: Yes. By the way, it can go the other way as well. If there are a number of positive things emanating, let's say, from Thunder Bay or Sault Ste Marie or other areas of the province that could be translated to other police forces, I think that also should be undertaken so we do not always have to necessarily concentrate on the negative.

Mr Kanter: This is my very last question. Might you think that this kind of communication or liaison function could be just as much the responsibility of the municipal police commission as the public complaints commissioner?

Mr Farber: Once again, our sense is that the more independent these things are seen to be, the more trust it will have in the community.

Mr Philip: What I read into recommendation 2 was a recommendation that has been made by a number of other groups: that the police complaints commissioner should have in this act the same power that the Ombudsman has in his act, the

same power that the human rights commissioner has in her act; namely, that she can initiate on her own initiative an inquiry or an investigation into any problem. Particularly in the case of Dan Hill, he saw it as his major responsibility for looking at systemic problems rather than simply being a watchdog on individual complaints.

I wonder if you feel that such an amendment should be incorporated into this act to allow the police complaints commissioner not just to respond retroactively to individual complaints, to put the finger in the hole in the dike, but rather to look at patterns of complaints and to investigate problems out there. A good example would be Dan Hill's look at the Workers' Compensation Board on his own initiative, not because of an individual complaint but because he saw some major problems there.

Mr Lenkinski: The answer to that is, yes, the public complaints commissioner should have the right, when he notices danger signals from a segment of the community that trouble may be brewing and by way of foregoing any kind of blowup, to start some investigative procedures that would go a long way in restoring the trust and eliminate the necessity to lengthen complaints and adjudicate dispute in that context.

Mr Philip: I want to compliment your organization on some of the initiatives you have taken. I think you have acted in a very positive way and without the help of government, and there is a real need for community groups such as your own doing this kind of thing. I wear a pin that I change from suit to suit. It was turned out by B'Nai Brith, and it says, "Proud to be Canadian: Unity and Diversity." I get more questions about that pin, which was turned out without B'Nai Brith's logo on it or B'Nai Brith taking personal credit. I think that is the kind of initiative which sprang from the anti-turban racist pins that appeared in certain parts of this country. People like you should be commended on your individual initiative in working with the community on things like this.

That is a rhetorical statement. I am sure you do not want to respond to it, but I wish there were a way of getting more of these pins out into the schools and so forth. I think it is a positive and concrete task that ordinary individual citizens have taken on their own.

Your point 4 is an interesting one because when Roy McMurry set up the Metro police complaints investigation bureau, he located it geographically in the same building as the Office of the Ombudsman. I think that does have a psychological difference, if people feel comfortable going to something that they consider is physically removed from the area.

On your comments in number 4 on the special investigations unit, do I take it that you would be more comfortable if such a unit answered directly to the Attorney General, or is there some other mechanism that you would like to see in terms of a reporting mechanism?

Mr Satok: I think we would be happy if they answered to the Attorney General.

Mr Philip: Of course, your first point is that the initial complaint should be investigated by an independent source and not by the police themselves.

Mr Satok: Yes.

Mr Philip: Is that as a result of your interaction with the visible minority community or as a result of your own experiences with your own membership? Are there people in your own community who feel reluctant to press charges? You are dealing

with a community that has been here for a great number of years, many of whom are professional. When they do lodge a complaint, do they still feel uneasy about the present procedure in Toronto?

Mr Satok: I would say that we have elements in our community—for instance, the recent influx of Soviet Jews—who do not feel comfortable going to the police to investigate because of their past pattern, and I think that applies to people like that. Obviously Canadian Jews of long standing are much more comfortable with the concept, but I think recent immigrants and sometimes older people have that problem of direct complaints. Obviously many of the minority groups have that problem. I think that has been enunciated. In the Jewish community, it is a mixed bag.

Mr Philip: And when we have no less a person than a highly prestigious person like Dr Wilson Head saying that he personally feels uncomfortable with it, with all of his status as a university professor and a well-known personality, then I guess maybe we do have a problem there.

Mr Farber: Let me just add one more thing in terms of your rhetorical statement; maybe I can add a bit of a rhetorical answer to it. One thing we found was very interesting in terms of our support vis-à-vis this particular issue and our relationship with the black community. We mention in our brief that over the last number of months we have begun a dialogue between the Jamaican Canadian Association and the Canadian Jewish Congress. This is something we are doing in order to try to foster a better understanding between our two communities and come to a real understanding of some of the issues facing blacks in Canadian society.

It is as a result of our understanding of some of the concerns that they have with the tragedies over the past 18 months or so that our community felt it urgent that we present our views as a community that has been here for quite a while and that has had some very positive and professional relations with the police force.

What has been interesting for me, as the research director of congress—and I can tell you, quite frankly, that certainly over a period of months we receive hate mail at our building and that is something we have unfortunately learned to live with. There are small pockets of racists in our society, and no society is perfect. We expect that and it is unfortunate. However, the increase in some of the mail that we received once we made public our concerns and made public our position was disconcerting to say the least. As much as we as Jews get used to the fact that there are anti-Semites out there, it still hits us like a bolt when we understand that anti-Semitism and racism are really blood brothers and that they are the same side of the same coin.

I pass that on just so that we have an understanding that, yes, there are people out there who harbour racist attitudes and, yes, we still have to continue to work very hard in terms of stemming that tide.

Mr Philip: The frustration I find in the police is that they do not have the tools to deal with that kind of thing. I have raised the issue concerning racism which is being spread against the Hindu community suggesting that the Hindus are part of a devil plot to infiltrate the minds of "the Christian community" or something like this. I am sure, being aware of these things, you have seen some of this stuff. Yet as much as the Attorney General abhors it, and as much as I do and as much as you do, we do not seem to have the laws to deal with that kind of

borderline stuff that passes in the name of some kind of convoluted theology, pseudo science or whatever.

I wonder if you have any views as a lawyer, as someone dealing with this, on something that could be done to strengthen either this bill or some other act that would deal with that kind of pollution which all of us see from time to time. Representing a large visible minority community, I myself see that perhaps more often than a lot of people.

1150

Mr Satok: You are fortunate; three of us are not lawyers, so we cannot reply in that legalistic sense.

I think it is a question of getting the story out. There has to be much more public information. There has to be much more of a focus on these problems. They cannot fester unheralded. Maybe it is the responsibility of the media to be more objective rather than sensational in looking at these matters. I think public perception of anything takes a long time to change, and obviously with new immigrants in this community, certain perceptions are there that will have to be changed also.

Mr Philip: So you are saying it is education rather than policing.

Mr Satok: Yes.

The Chair: Thank you very much for sharing your recommendations and comments with the committee. They will be useful to us in our deliberations.

We have two more presenters who will be presenting this morning.

BEV SALMON

The Chair: The first presenter will be Bev Salmon, a Metro Toronto councillor. Come forward, please. We usually provide 30 minutes, which includes time for questions and comments.

Councillor Salmon: Before I start my formal remarks, I would like to just echo the complimentary remarks that were made to the previous speakers. Certainly the Canadian Jewish Congress has been a strong ally to the black community in fighting racism. I recall that in the mid-1970s when there was a white power message listed in our Bell Canada directory, it was very difficult for the black community to succeed in getting rid of that listing and that white power message. It was with the assistance of the Canadian Jewish Congress and the fact that the messages also became anti-Semitic that we were successful in eradicating that very offensive message.

Before I start, I would just like to make it clear that my submission is made on my own behalf and not on behalf of Metro council. I believe Metro council is making a submission to you on 18 June, but I do welcome this opportunity to express my views on Bill 107, the Police Services Act.

As a Metro councillor, I have received numerous calls resulting directly from the recent police shooting of the black youth Marlon Neal. In fact, my office has been literally seized with the matter for the past month. The amount of concern and anger that has surfaced must not be brushed aside. It is abundantly clear that blacks will no longer tolerate receiving second-class treatment, nor should they.

Some of the complaints I have received regarding police handling of blacks include:

A complaint from a black surgeon pulled over on the Don Valley Parkway allegedly for speeding. The police approached on each side of his car with their firearms drawn. After he

showed his identification, they said it was mistaken identity. No ticket was issued. This was not his first such experience while driving an expensive car.

Complaints from hospital workers regarding racially derogatory remarks by police towards black patients. It seems this is not an uncommon occurrence in several emergency departments.

A black businessman in his late 20s frequently pulled over by police to explain how he can afford to drive a late-model car. This again is not an uncommon experience, particularly of youth.

Taxi drivers told by police not to pick up blacks until a crime suspect was found and students complaining of rough handling by police.

Most callers were reluctant to complain to the police. Some who did complain were not satisfied with the handling of their complaints. Others described police retaliation following complaints.

I personally suffered police retaliation in the mid-1970s after I reported three incidents of police harassment to the Metro Toronto Police through the then Metro chairman and police commissioner, Paul Godfrey.

It is evident that the present process continues to lack public confidence. I therefore recommend that the public complaints commissioner be mandated to investigate all citizen complaints against police for the first 30 days after the complaint is filed, and thereafter that the complaints commissioner have the power to initiate complaints and to audit the investigative and prosecutorial processes and practices of the police.

Regarding the special investigations unit referred to in section 112 of the bill, I strongly urge that this unit should not be located in the Ministry of the Solicitor General. It should be in either the office of the independent complaints commissioner, which is my preference, or the Ministry of the Attorney General. My reason for this recommendation to amend Bill 107 is that the office of the Solicitor General is directly responsible and accountable for all police departments and has a political interest in good appearances. It is essential to allay public suspicion as well as police suspicion as to the integrity of the investigative process. The recent change of charges in the Marlon Neal case is a prime example where the police became suspicious when the charge increased and the public was suspicious when the charge stayed down. The investigative process must be independent in order to be seen to be fair.

Regarding use of force, Bill 107 should be amended to include provisions regarding use of force as recommended by the Race Relations and Policing Task Force. Police should be required to include in their written reports all incidents in which they draw, as well as fire, their firearms. The special investigations unit should receive these reports. Police chiefs who are already experienced in working with this requirement have confirmed that accountability for drawing of firearms has not been an impediment in conducting their duty. The principles of non-violent policing referred to by Coretta Scott King during her recent visit to Toronto should be considered.

Affirmative action: In my view, employment equity programs alone will not bring about the required change in the workforce. To ensure that police forces reflect the multicultural and multiracial diversity of Ontario society, it is imperative that mandatory affirmative action is instituted and monitored, with realistic goals and timetables. It is a given that the merit principle operate. These principles should be extended to police boards and commissions as well as police services. Central

recruiting, goals and timetables are necessary steps to realize effective results.

With regard to training and retraining, it is important to have effective race relations training and retraining on a province-wide basis as an integral part of police training. Police personnel should all receive this training so that they are well equipped to work in any force and with a racially diverse society. Training courses should be reviewed and upgraded regularly and, as recommended by the task force, there should be an independent review of the train-the-trainers program.

In conclusion, I agree with the declaration of principles in section 1 of the act. Points 1 through 6 attached to my brief have been carefully thought out and are of particular importance if peace and public confidence are to be restored in view of recent unrest within Metro Toronto.

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The government should expeditiously implement the recommendations of the Race Relations and Policing Task Force. The expectations of the visible minorities were raised when these recommendations came forward in order to respond to their concerns. Recommendations 10 and 11 of the Lewis task force—reasonable accommodation for religious dress; eg, the Sikhs—should be incorporated into the act. Similarly, Bill 107 should be dealt with as soon as possible. However, I have some concerns about some sections of the proposed amendments, as expressed above, and I ask your consideration of my submission.

Mr D. W. Smith: Certainly you have given a complete presentation here. I just wanted to ask you a question on page 3, employment equity programs. Have you any idea of the makeup of the number of cultures or the different cultures on the Metropolitan Toronto Police Force, and men and women? Have you any numbers or stats along those lines right now?

Councillor Salmon: No, I do not. I would just say that there is an underrepresentation of visible minorities, and certainly visible minorities encompass many cultures as well.

Mr D. W. Smith: But you could not say whether the force has 5%, 10%?

Councillor Salmon: No. I believe the police do have those figures, but it is a low percentage.

Mr Philip: You have been dealing with these issues for a long time and I greatly appreciate your personal experiences. I know that you are, no doubt, having a major influence on the Metro brief, but it is useful having you here personally so that we can question you.

Let me start off with the last point you made, that sections 10 and 11 of the Lewis task force recommend that there be absolutely no doubt concerning the right of people, for religious reasons, to wear the five Ks, basically. We know that a number of police forces, including the one that you have had some influence over, Metro Toronto, and indeed Peel-Mississauga and some others, have already dealt with that.

Are there police forces in this province that are still discriminating, to your knowledge, that would require that we have it in this statute rather than simply vaguely put into regulations, where it may be possible at some future date for the minister to do that?

Councillor Salmon: It is my understanding that it is at this point still a matter of regulation, not legislation. I am quite certain there are a number of police forces within Ontario that

really have not dealt with the matter and that is why I think it is very important that it be a matter of legislation, that it be dealt with within the bill. Therefore it will be unequivocal that anyone who applies to any police force who wears such religious symbols should be able to gain entry with no further equivocation.

Mr Philip: As the federal government has done with the RCMP.

Councillor Salmon: Yes, exactly.

Mr Philip: You basically have three major complaints with the bill, as I understand them. One is that the public complaints commissioner should investigate all citizen complaints, not just at certain stages; two, the police commissioner should have the power to initiate his own investigation or, in Dan Hill's words perhaps, or Ombudsman's language, do systemic investigations; three, the right of audit of investigations.

Councillor Salmon: Yes, I think that is very important.

Mr Philip: I understand those points and those are points that are being made by a number of organizations. When it comes to the affirmative action recommendation, not everyone has made that. I wonder if I can rely on your experience in looking at the North American situation and the experience of the black community in the United States. Have you noticed in looking at various jurisdictions that the states that had affirmative action achieved results better than those that had employment equity programs or voluntary programs of various kinds?

Councillor Salmon: In my observation the United States approach to affirmative action has been based more on a quota system, and I am certainly not recommending that for us. I think we can learn from their experience that simply filling quotas, sometimes with multiple placements, does not achieve the proper target. Affirmative action to me is a much more aggressive approach than employment equity. Employment equity in essence says that we do not discriminate, but if it has goals and timetables built into it, it is certainly a more accountable process. But affirmative action is a more positive thrust. If we are looking at the United States for a direct comparison it is difficult, because we have always gone the goals, targets and timetables route, whereas they started on a different footing with quotas. So it is difficult to compare directly.

Mr Philip: Affirmative action to you means more than setting quotas. It means setting up learning opportunities, perhaps altering, as Metro did, height and weight requirements, taking various kinds of initiatives that will make it easier for qualified, competent people in the visible minority community to become police officers.

Councillor Salmon: Right. I think it is a much more aggressive approach, taking more positive action to ensure results, and it is something that we have not mandated.

Mr Philip: It in no way means, in your view, the hiring of people who may be incompetent, simply because they are members of a minority group.

Councillor Salmon: Definitely not. I think the merit principle has always been fundamental to our approach to both employment equity and affirmative action, and it must be in place. However, that does not mean that you could not allow someone to enter the police force who has had experience, say, on other police forces in other countries. I think you need to

carefully examine the criteria and the level of experience that these individuals offer.

Mr Philip: And allow for upgrading programs where necessary, as has been done in the case of nursing and nursing assistant programs here in this province.

Councillor Salmon: Absolutely; definitely.

The Chair: I want to thank you on behalf of the members of the committee for your brief and for sharing your comments and recommendations with us.

MARIA AND THEODOR MAG

The Chair: Our next presenters will be Maria and Theodor Mag. Come forward, please. As you have probably heard, we allot 30 minutes per presenter, which includes questions from the committee members. Please proceed.

Mr T. Mag: We are pleased to be able to have an opportunity to be here and speak to you. We are a family with certain experiences. We appear as private citizens before this committee. We are moved to do this by our experience with police over the years, including the recent past. This experience indicates to us that a citizen is stuck with whatever perception the police force arrives at. We are here, I might also say, on quite short notice. We have not had an opportunity to prepare a written submission for you. I hope you will bear with us. I would like you to take this as perhaps fairly impromptu, but therefore maybe something that comes from the heart.

I have listened to submissions for the last hour or so. I agree with a lot of what has been said. I would like to reinforce these things without necessarily being able to make specific points about the bill and so on, but perhaps you will bear with me and what I have to say and ask me some questions where you feel that I have not given you enough details.

The Chair: For your information, you should be aware that there is the Hansard of your submission. It will be recorded and it will be available to anybody who wants it in written form.

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Mr T. Mag: Because of the drug scene over the years, which everybody is familiar with here in this room, we have had considerable problems in our neighbourhood. Rather than taking the law into our own hands, we have felt that we ought to rely on the police force, in this case the York Regional Police Force, to try to deal with the problem. You might ask why it should be our concern. At the time we had teenaged children open to this same thing. We were concerned about it and we were therefore feeling that we were quite entitled to do something about this kind of problem. That in turn has led to harassment and vandalism of our property, which to some extent persists to this day.

In the process of trying to deal with this kind of thing, of course, the first thing you do is you go to the police force and try to get a hearing and try to get some action, but certainly you try to get a hearing. You hope to get some response to it. The next thing you do is you go to a member of the police commission who seems to be more or less representing your area. Our experience in both of these instances has been not entirely negative, but almost entirely negative.

Also, we have had, in the course of these events, occasion to complain about some police officers. That is just not the thing you do at all, we learned. That really puts you into the bad

cases of the police force. In more recent times we have had some response from a member of the police commission up to a point, but it has been on pain of being called liars or, "If you are lying then we will really come after you," or words to that effect.

Mrs M. Mag: If I may just interrupt, I was told by Margaret Smithyes that if I was not telling the truth I was going to be told to shut up. That hit me very hard at the time, where the rug was pulled from under me by police officers where I called for help and the police officer told me off, that I was a troublemaker, that I was causing problems and so on. I did then phone the police and try to get an investigation going. I did not hear anything from them. I tried again with Margaret Smithyes to get some information. Finally, when I did get it, after a while I found out that my calls were erased by that police officer.

Mr T. Mag: The point that we are trying to make here is that we have a police commission. Ostensibly the people on the police commission, as far as I know, are there to represent the public. They are also known not to represent the public; at least it has not been working that way. It is relatively futile to talk to police officers, superior officers themselves. We attempted this in our case with the previous chief of police in the area and with the present chief of police in that area. It does not lead to anything; it simply gets washed off. The kind of attitude you meet is the same thing we used to have with wife beatings by a husband. Wife beatings are not something that we have worried about in the past. We have said, "It is a domestic dispute." In our case we are being told it is a neighbourhood feud. If it is a criminal act, it is a criminal act, regardless.

You can get into the kind of situation where police will not do anything, where you have no recourse to anybody to see to it that the police will do a job. I guess that is really the same thing as some of the more professional submissions have pointed out on a more formal basis. The point we are trying to make here is that the individual citizen out there can run into exactly the same sort of thing.

We do not know what biases are involved. It is not that kind of a thing, although there may be biases involved. But in any case, the impression we have always got is that: "Look, we don't want to look after these kinds of problems. Why don't you move? Why don't you do all kinds of things? The last thing that we want to do is to nip a problem in the bud."

When it becomes a larger problem, then you say, "Well, why don't you go and lay private charges?" We feel that there are a lot of cases out there. We have talked to many people who have expressed the opinion, "You know that you do not get the police to do anything about things unless they want to do something about it." The way they make up their minds about when they do something about a problem and when they do not do something about a problem is entirely up to the police force.

The police force is not necessarily omniscient. It needs some body that monitors and judges—or whatever expression one may wish to use—their action. As far as I can discern, there is really no such body existing at the present time. The police force investigates itself, usually. We have had situations where we have been literally laughed at over the phone. When we remonstrated about it to a police commissioner, in one case we got no action and in a second case we were told that there had been certain action. We never got any written confirmation of any action.

I wanted to summarize that to you on the handling of this kind of scene. I think it is quite clear that it has moved us to appear here before this committee, to try to put our situation in

the perspective where we have come to the conclusion, absolutely, that there has to be some civilian body that reviews police actions and that an ordinary citizen can go and complain to, or see that this is reviewed by somebody other than the police force or political appointees on the police commission. Thank you very much for listening.

Mr D. R. Cooke: This is a very disturbing presentation. Mrs Mag, you said that you laid a complaint and then you subsequently found out that an occurrence report had been erased.

Mrs M. Mag: Yes.

Mr D. R. Cooke: How did you find that out?

Mrs M. Mag: Margaret Smithyes told me that the officer had erased my call. The detectives investigating could not find anything on the tape, as far as the incoming call that I had placed to the officer was concerned.

Mr D. R. Cooke: This was a call that would have been recorded on a 911 number?

Mrs M. Mag: It would have been recorded at the police station. I was very upset about it because it just hit me like a rock. When I called in, I asked the officer for help. In fact there was supposed to be surveillance in the area. I have found over and over again that there is no surveillance, that there is no police and that we are left to our own devices when a gang comes to beat you up. We have been assaulted. We were just assaulted recently. It seems to go on and on. I get a lot of threatening phone calls against myself, my family, my husband's work, my work. It has been going on for over a year.

Mr D. R. Cooke: In this particular case, when you say it was erased—

Mrs M. Mag: This is what Margaret Smithyes told me, that they could not find the call and the officer admitted erasing it. I had several meetings with the chief of police. They have been taping things just to have evidence, because I was always told it was not so. Finally I hired some private detectives. I hired a lawyer to finally find out if the police would investigate. He found out that there has never been an investigation, that no notes were taken. Every time something happened, the officer would tell me, "It is your word against these people's word and you won't get anywhere in court." And still I had to go to all kinds of places for help.

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Mr D. R. Cooke: Margaret Smithyes is a lawyer?

Mrs M. Mag: She is the police commissioner.

Mr T. Mag: We have had, since about February or April of last year, harassing phone calls.

Mrs M. Mag: Threatening, harassing phone calls.

Mr T. Mag: Including threats to our children who are not at home.

Mrs M. Mag: Threats of rape towards me, threats against my husband's company as well as threats against my business, threats of rape against my children.

Mr T. Mag: It was at one time traced to a neighbour.

Mrs M. Mag: And the police did nothing about it.

Mr T. Mag: Nothing was done about it, even though we had a meeting with the police.

Mrs M. Mag: They investigated and the neighbour denied it.

Mr T. Mag: We were simply told at that point that they denied it and therefore we could not lay any charges.

Mrs M. Mag: Then another neighbour joined in, and then I got the threatening phone calls because they felt if the police are doing nothing, they can just run us into the ground. We put our house up for sale last year.

Mr D. R. Cooke: Have you ever tried to lay a charge yourself by going to a justice of the peace in a situation like that where there was a threat and there was some evidence of—

Mr T. Mag: We have not, simply because we believe that is what the police are for. We have been told that quite a few times. That of course means that we pay taxes for a police force on the one hand and then we go out and spend our own money to see that we get some justice done.

Mr D. R. Cooke: You are right, it is what the police are for. I just wondered, when the evidence had been assembled, and in that case they said they were going to do nothing about it, but getting back to the situation where a police commissioner found that some evidence had been erased, what did she do about it?

Mrs M. Mag: She just told me that. I never got any meetings with the police on my particular complaint. I would like to have had a meeting with the police, with the officer, and I would have liked the officer to apologize to me. Deputy Chief Cousineau apologized to me and he said he would not stand for that kind of thing. I had already previously told them on a few occasions where similar things had happened. At home I have all detailed notes made, names, times, everything, when things happened.

We were called this morning at 9:30 that there was an opening for us. I knew at no time that we would get a chance to speak here. I called a few weeks ago to see if we could and I was told they were not sure, and I heard nothing, so I thought we would not get a chance. If I had known, we would have been better prepared. I would have had my notes and names and everything with me, but I thought: "Here we go again, like everything, there is no time. You don't get a hearing." I really appreciate this, even though I got the call at 9:30 or so this morning and we have to come from King. I did make the effort, and the reason is that I feel the truth really should come out.

The Chair: I would add that frequently presenters before committees file additional information and documents after their verbal presentations. We would certainly be very interested in receiving any documentation or information that you want to provide to us, and we would certainly undertake to copy that information and make it available to all committee members.

Mrs M. Mag: Okay, we will do that.

Mr T. Mag: The point we really wish to make is that there are other reasons and special groups which say that the police can be quite arbitrary, in our experience, and that it is high time that there be some better mechanism to oversee the police than the one that exists today.

Mrs M. Mag: I feel if the police had charged the neighbour when Bell traced the calls back there last May, I would not

have gotten the additional threats, when another neighbour feels, in fact has even said so: "The police are not listening to us any more. The police are not charging. Nobody is charging any more." We are troublemakers for the very reason that we obey the law.

I fought drugs like hell when they were growing in my area for over three years in the ravine, in the farmer's field. I told the York Regional Police; they did not listen to me. I had to go to Chief Crawford and he called in the OPP. A search warrant was laid. The OPP investigated with the York Regional Police officer and the drugs were found right on that person's property. Then we were threatened that they were going to beat us up. Then the OPP officer called me to be careful. Threats were made against us. Then he phoned the York Regional Police. The York Regional Police were supposed to come to our place. I do not know how that happened, but the York Regional Police ended up at the drug place. Now, who sent the York Regional Police to that neighbour's house instead of our house? He sat in the driveway there and the gang came out and he took off. Then he noticed he was at the wrong house.

Mistakes were made over and over and over again, and I, as a woman—my husband goes to work during the day—I had to live with the gang. I feel I have lived on threats for so long. You get nowhere. The police tell you to lay charges yourself. If you do lay charges yourself, you have to get a good lawyer. You have to have some money for the lawyer and everything to look after it. I have done it on occasion, because I felt I had to protect my family.

Mr Philip: Do I take it in your response to Mr Cooke's several questions that at one point you said the threats were recorded, either by you or by the police?

Mrs M. Mag: Yes.

Mr Philip: And you have copies of those tapes?

Mrs M. Mag: Yes.

Mr Philip: Did you supply those to the police commissioner?

Mrs M. Mag: Yes, I did. I am working with Detective Mike Moran. I talked to him a few weeks ago. One day I got 64 phone calls that tied up my line. Another day I had 45 phone calls. He was supposed to monitor them very closely and I was back checking with him on certain days. One day when I had 45 or 46, he had only 20, so I questioned him, "How come you have only 20?"

Never at any time, over a whole month's period where I was to monitor the calls that were coming in, did I get a chance to talk to him. He was never there. I had to give the information to about five, six different officers, including a typist, and I felt my information was all over the place, and when I asked to have a meeting with him to go into more detail, to be exact about what information he has compared to what I had coming in, he said, "No, we're just always doing that over the phone." I said: "I can't do three weeks of calls that came to you now over the phone. I want to sit with you. I want to go over it." I had to push him to get a meeting with him.

When I finally got a meeting, all he did was meet me at the front entrance of the York region office. He did not ask me to come to his office. People were going back and forth and I was supposed to discuss threatening phone calls with him and the details of them. I find that really shoddy.

Mr Philip: So the police, with your permission, have a tap on your phone at the present time?

Mrs M. Mag: Yes.

Mr Philip: So they have recordings of every incoming conversation?

Mrs M. Mag: Yes, but they have told me they have been unable to record a single threatening call that has been coming to my house. They are saying this guy is using a car phone. He is travelling from one switching area into another switching area.

I phoned Bell Cellular and I phoned Cantel and they told me that if the police get a search warrant they will check the numbers again, if anybody called my number. This officer has refused to take a search warrant several times. I have even talked to Deputy Chief Cousineau and he has told him to get a search warrant. He has on several occasions told me he is not going to.

Now, if step 1 does not work, you should go to step 2. He refuses to do step 2, so we will never catch the guy that is doing it to me. Even though I recognize this voice, I know who it is and I have told the officer who it is, the officer is refusing to do anything because of my evidence. I am never being believed, and I feel I am just running against a brick wall all the time.

I went out of my division into 28 Division several years ago. I did some undercover work on the place beside me, and I worked with Deputy Chief Cousineau. We worked for one and a half years and out of that came the Ballantrae connection, where there were 73 arrests. I know this particular family. It was a drug safe house that was right to the south of us. They were selling to children in our town, selling drugs to children as young as seven, 10- and 12-year-olds, and I know their thing was selling to kids, and selling to high schools. I knew the people involved. One of the people who were involved was one of the drug pushers who was in the house south of us. His sisters and brothers were all heavily involved in it.

Mr Philip: I think we get the idea. One last question. Mr Mag, do you receive these calls, or is it just your wife who receives them?

Mrs M. Mag: Both.

Mr T. Mag: Whoever takes the phone. Most of the time my wife is at home and of course she takes most of the calls.

Mr Philip: And these calls threaten your life as well as your wife's?

Mrs M. Mag: And my children.

Mr Philip: And you have talked to these people, as well as your wife?

Mr T. Mag: There have been threatening calls, and a lot of calls also where we simply have the phone ring and then it hangs up.

Mr Philip: But you personally have received threatening calls, as well as your wife?

Mr T. Mag: I have received threatening calls. I have taken calls where I have had inquiries about my children's health and how they were doing and so on.

Mrs M. Mag: And they say, "Are your children safe?" He is also naming my youngest daughter, Ingrid.

Mr Philip: And you have not changed your number as a result of this?

Mr T. Mag: My wife operates a flower business from the house—

Mr Philip: So for business reasons she cannot.

Mr T. Mag: Yes. We have told the police. That was a suggestion. Even though they know that we have a business, they nevertheless suggested that, "Well, why don't you just change your telephone number?" I said, "Now sir, with due respect, am I going to be punished and lose a lot of business or is my wife going to be punished and lose a lot of business because you people don't want to do anything?"

We had the detective and the inspector of detectives there to discuss the question at one time last spring, why don't we get some charges laid now that we know who it is? But now that we know where the calls are coming from, there is still a question then, of course, as to who calls from that house.

Mr Philip: Mr Chairman, I would suggest that we send a transcript of this, though our clerk, to the chief of police for—is it York-Peel?

Mr T. Mag: York region.

Mr Philip: And to the chair of the police commission. I don't know what further action we have.

The Chair: I think we can also ensure that the Solicitor General sees the transcript. I think it would be of interest to him.

Mrs M. Mag: We have also been to the Ontario Police Commission at one time, and again we were told that the police did no wrong.

The Chair: We certainly want to thank you, Mr and Mrs Mag, for coming before the committee and sharing your unfortunate experiences. As you heard, the transcript of your comments will be sent to appropriate authorities, and certainly the members of this committee will take under advisement your experience when they deliberate on the bill that is before us. I want to thank you very much, on behalf of the committee members, for coming before the committee and sharing your experiences and your recommendations with us.

Mr T. Mag: Thank you very much for the opportunity.

Mrs M. Mag: Thank you for listening to us.

The committee recessed at 1235.

AFTERNOON SITTING

The committee resumed at 1546.

NATIONAL COUNCIL OF JAMAICANS AND SUPPORTIVE ORGANIZATIONS IN CANADA

The Chair: The first group of presenters this afternoon will be from the National Council of Jamaicans and Supportive Organizations in Canada. Roy Williams, president, and Mr Khenti, executive director, please come forward.

We normally allot 30 minutes per presentation and that would normally include time for the questions of committee members. I note that your brief is fairly extensive. If you want to leave some time for questions and comments, you may want to summarize or abbreviate some of the comments that are in your written brief. We have distributed your written brief, so the members of the committee will have access to that and will be familiar with the contents of it.

Mr Williams: I would like to introduce Akwatu Khenti, our executive director, and Ruel Grey, the vice-chairman of the council, who is here with me as well. We thank you for the opportunity to present and we will be as brief as possible. We will précis the information that is before you.

The National Council of Jamaicans and Supportive Organizations is federally incorporated. We are an umbrella group for associations, clubs and societies across Canada that have a predominantly Jamaican and/or Caribbean membership. We speak for a number of organizations.

Our aims and objectives are included. They should have been attached, but they have been subsequently circulated. You can peruse those.

We want to emphasize that the black population in and around Metropolitan Toronto and in Canada has a large amount of Jamaican input in that the majority of the immigration into Canada has been from the Caribbean. I am talking about the black immigration. It has been predominantly from the Caribbean, and a majority of those people are Jamaicans. Many have settled in Ontario and in the Metro area.

Remarks have been made and printed in the newspapers attributing a lot of the crime activity to black people. One of those articles in the Toronto Sun even named Jamaicans as the people primarily responsible for criminal activity, so we are particularly interested in this whole issue.

We are concerned with the contents and the swift passage of this bill because the majority of the police shootings in the Metro region, and the one near Ottawa, Leamington area, have affected Jamaicans or people who are of Jamaican descent. So we are really interested in this issue and having the matter dealt with quickly.

We are particularly concerned with the content and the swift passage of the bill because we are seriously alarmed and frightened by the increase in the frequency with which the shootings are occurring. There was a long period between 1969 and 1979, between the Buddy Evans shooting and the Albert Johnson shooting, when things seemed to have calmed down. Between 1979 and 1988 there was a fairly long interval and then there was the Lester Donaldson shooting in 1988. Since then there have been four or five shootings, so we are concerned about the frequency with which the shootings are occurring. We think that this is unacceptable in a civilized society. That could also be said about a civilized city such as Toronto.

The number and increasing frequency of police shootings have contributed immeasurably to the poor and worsening rela-

tions between the black community and the police, with no end in sight. There seems to be no one in a position of authority who is willing to do anything to end it—not the police chief and not the Ontario Police Commission.

It is important to note that there have been a number of responses to the shootings that have occurred over the years. There have been task forces, royal commissions, appeals to archbishops and cardinals and, most recently, to the Lieutenant Governor. Of course, there has been the tried and true solution of the creation of a task force or royal commission to study and recommend.

We think that all of these have really achieved nothing, a big zero. Has anything changed? They say that the proof of the pudding is in the eating. In the years between 1969 and 1987, there were two fatal shootings. In the years from 1988 to 1990, there have been six shootings, two of which have been fatal. Please explain to us where the improvement has occurred.

You are well aware of the task force that was created following the last shooting in 1988. That task force held hearings in several places and came up with a report and recommendations which were submitted to the Solicitor General. Subsequently, the Solicitor General presented Bill 107, the Police Services Act.

The national council is really alarmed at the delay that occurred. Considering the nature of the relationship that exists between police and the visible minority communities, the black community in particular, one would have thought that this bill would have been at the top of the government's priority list. However, we are quite happy now that it is on the table, and we certainly hope that it will not lose momentum and that the act will be passed before the Legislature rises.

I would like to address the matter of monitoring. The national council fully supports the recommendations of the Race Relations and Policing Task Force. We are very disappointed that the government has chosen not to create an independent entity to monitor, oversee and assist in the implementation of the task force recommendations. The creation of an agency with such a mandate would have given assurance to us and all other communities which have a high stake in the successful implementation of the recommendations that in fact this would occur.

We worry about the fact that there are changes in ministers, deputy ministers and other officials. With these changes that occur from time to time, there may be a loss of resolve and certainly a loss of commitment to this issue. Had there been this monitoring force, there certainly would have been some stability.

So for all the above reasons, we would have been more confident had the monitoring agency been established as an entity with its own statute and quite independent of the Solicitor General. We fervently hope that the bill will be amended to create the implementation agency recommended by the Race Relations and Policing Task Force.

On the matter of hiring and promotion, the national council is pleased that the bill contains a requirement for a mandatory employment equity plan for all police agencies. This is essential in ensuring that all police agencies in Ontario begin to remove the barriers to access that are systemic and begin to actively recruit, invite in and welcome members from all the ethnic, cultural and racial groups that now comprise the reality of modern-day Ontario and especially Metropolitan Toronto and regions.

We were quite alarmed in the report of the task force to discover how few visible minority officers were involved in policing in Ontario—only about 350 out of a total of almost 20,000—and when it came to those in ranks above that of constable, only 37 in all of that number.

However, our major concern with the bill is the absence of target dates for the achievement of reasonable goals as outlined in the task force recommendation. We think that the absence of these deadlines will not encourage those who are not inclined to support this policy to take speedy action. We think that if they drag their feet, the matter will go much more slowly than it should.

We are further concerned that the consequences of non-compliance, avoidance and delays are so nebulous and vague that they provide neither an incentive for prompt compliance nor a deterrent for non-compliance. In short, the act contains no teeth as it relates to this matter.

Again, we want to stress we think it would be better if all of this were administered by the Ontario Race Relations and Policing Task Force, as recommended by the task force.

On the matter of the central recruiting unit, the recruitment of visible minorities and other police officers, accelerated promotional plans, lateral entry of competent persons to police agencies and the civilianization of many police functions which do not require the services of a sworn police officer, we see not a great deal on this at all in the act. All of these were recommendations of the task force. Our expressed hope is that these would be included in amendments or, failing that, that they would be included in the regulations. However, we would have preferred to see them rather than just having faith that they will occur.

We urge the government to include target dates for the attainment of employment equity goals and to impose severe and enforceable penalties upon those police agencies that fail to comply with the employment equity requirements of the act.

We commend the government for including those who are permanent residents of Canada as being eligible to be appointed as police officers, and we think there are many people who come from other jurisdictions with creditable police experience who may serve this country well.

We strongly endorse the higher qualifications of at least four years of secondary school education or its equivalent. We think that policing is a complex occupation and requires a higher level of initial educational exposure to more fully understand the dynamic and complex environment within which they will function. In addition, this allows for at least two additional years of physical and mental maturity.

On race relations training, the task force made many recommendations in this area. All of these seem to have been ignored in the proposed bill. We would only hope that they are being considered in the proposed amendments and/or being included in the regulations. Again, we would like to have seen them and been given the opportunity to comment.

This area is most important, as a predominantly white male police agency is asked to interact on a frequent basis with an increasingly racially and culturally diverse community. It is imperative that they deal with individuals from these groups without bias, without stereotypes, without preconceived notions relating to superiority or inferiority, without placing a value on their differences as they relate to dress, language, behaviour, customs or other aspects of their culture, and certainly with dignity and respect.

Without intense training in the understanding of the different cultures and races of the communities that are policed, it

is not difficult to understand the biases, the prejudices and the bigotries which develop and then get translated into differentiated policing between groups. As has been mentioned in previous submissions to this committee, it has been repeatedly pointed out to us by many members of the black community that they are policed differently. They are convinced of this, and it has even gone so far that large numbers of people in the black community have stated that they are deathly afraid of the Metro police. We think that part of the solution lies in proper training and retraining to enable police officers to understand and deal with different cultures and races.

I will ask our executive director to continue from here with some of the other points we are making.

Mr Khenti: I will begin with the use of force. It is the view of the national council that if any meaningful change is to occur in police behaviour, it will have to come from changes made in this particular area, the use of force. We remind this committee that all of the seven reports from commissions and task forces were triggered by police shootings that were seen by large segments of the society at large, and particularly the black community, as excessive use of force, the inappropriate use of a firearm.

Some have gone so far as to describe it as police violence. Some of these matters are still before the courts and obviously cannot now be discussed. However, the cynicism in our community is so great and so many of our people have lost confidence in the court system that we are becoming increasingly worried and want to see some urgent action take place.

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We believe it is unreasonable for the police officers themselves to shoulder the entire burden for inappropriate actions that have been taken. Those who make the rules under which the officer functions are equally responsible for the actions which follow from those rules—federal, provincial, and municipal governments. Police commissions and police chiefs are as responsible as the officer who pulls the trigger.

The police commissions in Metro have been particularly inept in dealing with this issue. They have buried their heads in the sand pretending that no problems exist. They have avoided the issue. They have preferred to run off to cardinals, archbishops, blue-ribbon committees and, lately, the Lieutenant Governor to bail them out. They ask them what to do, while at the same time voting solidly to maintain the archaic rules under which police operate and which contribute so mightily to the problem at hand.

Frankly, in our view the problem is less with the police officer on the street and more with his or her bosses who send the unmistakable signals as to what is condoned and what is approved.

The National Council of Jamaicans fully supports the recommendations of the Race Relations and Policing Task Force. They are wise. They are sensible. They should be accepted in their entirety and implemented quickly. However, if only partial acceptance is envisaged, then clearly recommendation 25, which calls for changes in regulation 790, is one that we see as essential. We see it as crucial. This is what triggers all of the problems, the indiscriminate and uncontrolled use of firearms. If this recommendation is not accepted and implemented, no change will occur. The task force will have wasted its time and its energy and the government will have avoided its responsibility. The cynicism and distrust will continue. Any time now there may be another shooting, another eruption and more social unrest. The tension between police and visible

minorities will continue. There will clearly then be another instance of abdication of responsibility by decision-makers.

Equally important is recommendation 26, which calls for amendment to subsection 25(4) of the Criminal Code of Canada. This is the famous fleeing felon rule. The discretion afforded police officers here to discharge their firearms in order to apprehend an escaping felon is too broad. As ridiculous as it might sound, a police officer is justified in shooting a child who has just robbed a candy store and is running away. Under subsection 25(4), it would be difficult to convict him or her of improper behaviour. Furthermore, it conflicts with the amended regulation 790 and renders such regulations inoperative because the Criminal Code takes precedence over provincial regulations and would be the operative legislation if a criminal charge were laid.

Furthermore, the National Council of Jamaicans fully supports the requirement that police officers file a report each time they unholster their guns and draw their weapons. We feel that this must be included in the present legislation. This is purely and simply a matter of accountability. We send people as young as 21 years of age out on the street with a deadly weapon and the power and authority to use it in any way they choose, and that includes to threaten and intimidate, as many in our communities have repeatedly reported. We require no accounting for his or her behaviour. This is patently absurd.

How do supervisors and senior officers monitor, influence and control behaviour of individual officers? Or do they? If they do not, we have a serious problem. In effect, we have in Metro 5,500 individual officers free to do whatever they choose without supervision or accountability. This is very risky, a risk that we are not at all comfortable with. We suggest to you that this absence of accountability is a significant contributor to the problems that now exist with respect to tension and distrust. It must be remedied.

In our view, this requirement does not in any way reduce or impair the ability of a police officer to do his or her duty. Clearly the police officer should always be on the alert. Should the officer sense danger, he or she has the right, and indeed the duty, to take protective and defensive action. If that entails unholstering and ultimately firing his or her weapon, so be it. That is what he or she has to do. No more, no less. All that is now required, however, is that he or she report the circumstances that occasioned the unholstering of the firearm and its firing, if it was fired. We think that is a rule that every well-trained officer can live with. If we need to increase police training to enable them to do so, then let it be done.

The national council supports the creation of a special investigations unit that is totally controlled and staffed by civilians to investigate all cases of serious injuries or death to citizens resulting from altercations with police officers. It is essential that the citizenry have full confidence in such a body. It has been voiced often that the bonding between police officers is so strong that it transcends the particular police agency in which they currently serve and carries on beyond current service into retirement. The public confidence in such a system is not great. It would be greatly enhanced if no allegiance existed to the policing fraternity. This council urges the government to amend the legislation to prevent this.

Confidence in the police agency and the building of good relations start at the community level. The community should see the police in each neighbourhood as their police. They should know their police officers by name. Likewise, the police officers should know the residents by name. There should be mutual respect for each other. This does not happen by accident.

It takes work and it takes understanding. It requires sensitivity and it requires dialogue, not an occasional dialogue but a consistent and continuing dialogue. It requires stability and long tenure in particular locations to effect this. It further requires a management philosophy and policy that mandates it. Finally, it requires management continuity that can survive the frequent changes of command officers and their propensity for idiosyncratic behaviour.

We are appalled that Bill 107 has ignored the many recommendations of the Race Relations and Policing Task Force with respect to community relations, even though this was one of the terms of reference. We have no knowledge whether any of these will be addressed in the regulations. It would be a serious mistake to ignore these recommendations.

In recommendation 37(a) the task force asked for a definition of racially prejudiced behaviour and that it be included as a disciplinable offence.

Recommendation 37(b) asked for the development of a police race relations policy.

Recommendation 38 asked that community-based policing be encouraged and resources be allocated to facilitate its widespread adoption.

Recommendations 41 through 46 relate to the creation and staffing of race and ethnic relations units in police agencies.

Recommendations 47 through 49 relate to community consultation and community advisory committees.

The national council thinks this is a vital area that needs to be addressed by both police and community. It urges the government to show leadership in this area by pointing the way, by giving direction, and that this be done in legislation. We ask that the amendments include this.

On the matter of police commissions, we as a community are yet to be convinced of their usefulness. If they were to be abolished tomorrow, would anyone notice? Does anyone even know that they exist, except when controversial votes or controversial issues are reported in the press in Metropolitan Toronto? Does anyone care? Do they do anything? Is their influence felt in the policies, directions and behaviour of the agency and its members, or is Metro Toronto unique?

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In our view, some commissions avoid making tough decisions and slavishly follow rather than lead the police agency in maintaining archaic status quo positions when, clearly, bold and innovative new directions are needed. They take the safe and conservative alternatives and miss the opportunity to make decisions that would really make a difference in our community, decisions that would really show true leadership.

In our view, the police commission is indistinguishable from the police agency. The fact that they share offices, staff, automobiles and other facilities compounds and blurs the difference. In our view, this undue closeness inevitably results in a steady erosion of objectivity and what emerges is a distinctly police bias on most crucial issues. In our view, this puts issues with which significant segments of the public are concerned at a distinct disadvantage.

We feel that the police commission has abdicated leadership. The leadership has in effect been ceded to the chief of police and the commission has indeed become an acquiescent follower. It is a rare occasion that the commission fails to deliver on an issue that a chief desires or makes a decision on.

The council supports the task force recommendations as they relate to police services boards. Specifically, it advocates entrenching in the legislation measures that will enable police

services boards to not only be different but also to appear to be different bodies from the police agencies they oversee. Police services boards must contain a wide representation of the community that is being policed, by inclusion of greater numbers from the visible minority communities and of persons who are able to withstand the intense pressure to acquiesce and to conform to the conventional or prevailing view.

The Solicitor General must have the power to remove board members or to request council to remove board members who do not serve the public well; indeed, to replace entire boards when the abdication of their leadership responsibilities is evident. Similarly, board members who fail to perform appropriately should not automatically be reappointed to a second term. Careful consideration needs to be given to the reappointment of board members to a second or other succeeding term.

Finally, to whom is a police services board responsible? Clearly the accountability issue surfaces again. To whom do they report? To the Solicitor General, to the municipal council, to the people of the municipality, to whom? The council is concerned that a police services board that is accountable to no one will in fact perform to the satisfaction only of itself and to whatever those standards happen to be, if any.

The national council is pleased that the proposed legislation includes a province-wide public complaints process. However, our earlier comments relating to public confidence in the process and of police investigating their colleagues apply here as well. We would have been really pleased had a completely civilian complaints investigation process been proposed. We would urge the Solicitor General to still consider this in the amendments which are forthcoming.

The National Council of Jamaicans and Supportive Organizations in Canada appreciates this opportunity to make this submission to your committee. We see it as an obligation and a duty in the continuing and difficult task of mending and ultimately developing amicable and harmonious relations among all segments of this society.

It is vital that we periodically examine the institutions which we have created to serve our society and to check them to see whether they are still functional or have become dysfunctional. Institutions, rules, regulations, practices and conventions developed 40 or more years ago rarely are able to survive the rate and frequency of dynamic change and continue to serve effectively. We must modify our institutions to make them relevant to the realities of today's world. If they do not serve us well they become a problem rather than a solution.

The national council would have preferred that the recommendations of the task force regarding the creation of a monitoring body were accepted and implemented. We would have had greater cause for optimism and hope. We are less confident and less hopeful, but we will not cease to demand changes to the system. We would have preferred to see the regulations in order to get a sense of what is included and what is not. However, the urgency of the situation demands that this legislation not be delayed any further.

Mr Chairman and members of the committee, I close with a plea to you to recognize the gravity of the situation and the lateness of the hour. Walter Pitman titled his 1977 report, *Now Is Not Too Late*. Clare Lewis, in his report 12 years later, remarked that "Now is the time." We say to you that the time has long passed. This city, this province, must act. We thank you for your time and attention. We assure you that the council stands ready and willing to assist in the amelioration process.

The Chair: By way of preamble before we get into questions, I just want to indicate, basically for the members of the

committee, that we were 15 minutes late in assembling a quorum and this particular delegation has consumed its whole 30 minutes. I am going to exercise my discretion and permit 15 minutes for questions, but we are now pushing 6:30. I would urge the committee members, and also the presenters, to try to be as brief as possible so that we can cover as many topics as possible. We do have four committee members who have indicated an intention to ask questions.

Mr Curling: I must commend you for this very extensive submission. It is unfortunate, though, that I personally will not get the time to read it in detail before we ask the questions, so I am going to anticipate certain things that I think would be in here just by the tone itself.

One aspect of it is that I thought your conclusion would not ask us to hasten the bill and to see it through before the session closes, so I was relieved when you said the time is now and we should do it. Therefore, I would say then, in conclusion of that part, that you feel that the bill is good. It is not great, it is not complete, but you feel that it is a positive start. That was just as a preamble to it all for a tone.

I want to put a question to Mr Williams. You sit on a commission and you have been subject to many questions or explanations as to your role on the commission. I was rather interested in your response to one of the questions that arose, when a member of the commission actually accused you or stated that you represent a certain sector of the community. The first of two questions I would ask is, do you think the commission is effective? I presume I get the tone. Do you see yourself and that commission representing just a sector of a society?

Mr Williams: I see myself as being a full commissioner responsible for the entire range of issues which are of importance to the Metro area or any municipality and its policing. I do not see myself as a segmented and marginal commissioner only interested in and concerned about certain issues. However, I should say that in addition to being interested in the whole range of issues, I bring a certain experience, knowledge, sensitivity and additional focus to commission issues which, I dare say, many other commissioners may not be exposed to.

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Mr Curling: I just have a couple more questions I would like to ask you. I am going to tap into some of your experience as an educator. On the matter of training, I think all of the training, so to speak, for policing is done in the police colleges. The matter was raised earlier as to whether training could be elsewhere. I will give you an example. Nurses at one stage would have done their training in the hospital environment and a hospital school. Now it is done in the community colleges. Do you feel that a community college is a good environment, a better environment, for training police officers?

Mr Williams: Without being specific about community colleges, I do not believe that police colleges are the only mechanisms and institutions that are capable of adequately and properly training police officers. Training solely in police colleges may be a disadvantage in that the training is too narrow and allows them only a police focus, a police viewpoint, when in fact in our society today we need people with a very broad perspective and approach to issues to do a proper job of policing.

Mr Curling: My last question is in regard to employment equity. Today I asked the members who presented here from the human rights commission to define employment equity. I will

not ask you to do that, because I was not quite satisfied with what I heard. The police association made its submission in part, I would say, and it had some concerns in regard to employment equity. As a matter of fact, what I read from the first blush of that report is that they are concerned very much about lateral transfer and the protection of individuals within their ranks. I presume you know what I am speaking about when I say lateral transfer.

Mr Williams: Yes.

Mr Curling: I do not need to explain it more. Do you feel that a lateral transfer would assist in any way in changing or bringing in a different type of qualified individual? As you mentioned in your brief here, there are quite a number of visible minority police officers who have been in the force for 20-odd years and they have not been promoted. Do you think their nervousness or concern is justified?

Mr Williams: I certainly do. One would think that just by the law of averages a certain number would go up the ladder in relation to their numbers in the system. That does not appear to be the case. So it would seem to me that special measures need to be taken. I am not suggesting measures that would be prejudicial to others. All we are saying is to level the playing field so that each individual has an equal chance and opportunity to be exposed to the entire range of training opportunities that would give him a leg up to have an equal opportunity to contest a vacancy that might arise. In my view, from the data I have seen, it does not seem that has been the case.

Mr Runciman: I will just direct this to any member of the panel. How many members do you have in your organization?

Mr Williams: Let me respond. We are an organization of organizations and we have about 50 organizations across Canada. Most, of course, are in Ontario because the bulk of our member associations and the population are in Ontario.

Mr Runciman: I was curious. In one part of your brief here you say, "Be it understood that we speak for the majority of black people in the greater Metropolitan Toronto region." I gather you feel pretty confident. I have read a couple of letters to the editor. There was one in the Toronto Star this past week from members of the black community who in some respects would take issue with the stands and views that you have expressed here today.

Mr Williams: We did not say all.

Mr Runciman: You say the majority.

Mr Williams: That is correct. We did not say all.

Mr Runciman: But you feel confident—

Mr Williams: Certainly.

Mr Runciman: And that is based on the fact that you are representing some 50 organizations.

Mr Williams: Certainly. Some of them are quite large.

Mr Runciman: There was a recent news report that Mayor Eggleton of the city of Toronto had suggested—which you have supported—the idea of officers filing reports if they withdraw weapons from their holsters. Mayor Eggleton had suggested that that report also include the race of the individual involved. I am wondering what your views are in respect to that.

Mr Khenti: Yes, we would definitely want the race of the individual to be stated. The people we represent are not afraid

of statistics, but we worry about the way statistics are used and the way they are compiled. A recent experience with the release in the 31 Division of statistics indicated that blacks—

Mr Runciman: Was that the Fantino report?

Mr Khenti: Yes, the Fantino report said that blacks, although they constituted a small number, were doing the most crimes. That type of opportunist release of statistics worries us. This is why the community screams when we see this being done. To make a case and to establish racism and to establish discrimination—it is obvious that as long as we do not have statistics we are screaming in the wind. We are concerned about process. We would like to have experts from our community participate in the process of analysing both the way statistics are compiled and the way they are assessed.

Mr Runciman: If you were able to play that kind of role in the compilation of statistics, not only involving drawing of weapons but also in terms of general crime statistics—

Mr Khenti: Not just general.

Mr Runciman: Whatever, a whole broad range of statistics. If you had an active role to play in that process, would you or your group have any reservations whatsoever about making those kinds of statistics available to the public?

Mr Khenti: As long as we are clear about the process from beginning to end, from the way the statistics are compiled, the way they are analysed and when and how they are revealed to the public.

Mr Runciman: If it was done through an annual report, for example.

Mr Khenti: Yes, something like that, and not when the budget for the police is being debated or when there is concern about black crime and voices are being raised but, as you said, in an annual report. We would very much insist on participating in the compilation of statistics about our community. Our confidence would come from participating in the process rather than having other people tell us about ourselves.

Mr Runciman: I just wondered about your views with respect to lateral entry. You support it. I wonder if you mean it should apply to line officers as well.

Mr Williams: We are talking about people who are competent to do the job. We are not talking about people being parachuted in merely because they are of a certain colour, certain religion or so on. We are talking about people who are competent and who may have acquired their policing knowledge, training and experience elsewhere. It may be necessary in some cases to have some updating here or qualifying mechanism here. The process now, where one has to go from constable 4th class—every person who enters the police force, regardless of his or her prior experience, training, education and so on—seems to waste an enormous amount of human potential.

Mr Philip: I guess if we can do it for nurses and doctors, maybe we can do it for policemen.

In looking at the Police Act regulations, the code of offences in Ontario, I am sure you would agree that there is no offence for discriminatory behaviour. I happen to have in front of me an act from another jurisdiction in which this particular police act passed in 1984 makes it an offence—"racially discriminatory behaviour be made a specific discipline offence"—and then it goes on to define it in the regulations.

The very radical jurisdiction that passed that in 1984 was the radical socialist government of Margaret Thatcher in Great Britain. I am wondering if so radical a government as Britain in 1984 under Margaret Thatcher could make it an offence to discriminate under the code of offences, is it too radical for Ontario to put that under its code of offences?

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Mr Williams: I do not think it is radical at all. I think it is reasonable and I think it is absolutely necessary in the kind of society in which we are now living. It is important that racially prejudiced behaviour be defined. A lot of our people have had difficulty establishing that they have been treated in a racially prejudiced way because there has been no accepted definition thereof. People smile and say, "You're thin-skinned," or "You've got a chip on your shoulder," or "You can't take a joke," or those kinds of things. So no just treatment of their grievances has resulted. Certainly I think it is necessary and absolutely required.

Mr Philip: The British seem to have defined it under this legislation. It might be something that we would like to look at.

I am sure you have watched some of the deliberations. The three major criticisms of this legislation, at least from members of civil liberties groups and members of the minority groups, are that under this bill there is no right for the police complaints commissioner to undertake inquiries on his own initiative, there is no independent auditing of the process and there are no independent investigations, at least at the preliminary stages.

Would you agree with some of the other groups that those are the three major faults in this bill?

Mr Williams: Yes. We would see as essential giving greater powers to the complaints commissioner to initiate and to take action where ordinarily the person or persons may feel too intimidated or too unable to take action on their own. I think that would be a good addition.

Mr Philip: You talked about targets needed in employment equity. This morning Bev Salmon said that employment equity programs alone will not bring about required change, but rather that what is needed is mandatory affirmative action. I will not go on to describe how she spelled it out. I think if you watch the Legislature tomorrow, Bob Rae spells out fairly clearly what that kind of program could mean.

Is your position simply that you would be content with employment equity, with targets or schedules for implementation, or would you rather have an affirmative action program?

Mr Williams: Affirmative action really says that one must take proactive measures to make sure that these things happen and that not all of the people you have brought into the system get bunched up at the bottom of the ladder. It means that the management must put things in place, must make training available, must target and advance and provide broadening and enriching opportunities for people who qualify. Certainly we support affirmative action as an essential thing to make it alive and make it work.

The Chair: Thank you, gentlemen, for presenting your brief. Did you want to squeeze a short question in, Mr Cooke?

Mr D. R. Cooke: Certainly, if I may.

This is probably the toughest brief we have had on police commissions. We are trying to grapple with what the role of a police commission should be in the future. I notice Mr Khenti read the area on page 15, where you talked about responsibility

for senior officers and indicated that the Metro commission is particularly inept in dealing with this issue, that they have buried their heads in the sand. Then you go on to talk about the lack of officers being promoted in an equitable fashion. What have you done about it? Are you inept?

Mr Williams: The whole commission is inept. If I am on the commission, that makes me inept as well.

Mr D. R. Cooke: Why?

Mr Williams: One vote out of seven does not change a lot of things.

Mr D. R. Cooke: Have you made inquiries? Have you tried to determine the answers to these questions? What kind of answers do you get?

Mr Williams: I think you should be aware that, first of all, the commission does not have a great deal of staff and relies very heavily on the police staff to provide information, to provide data, etc, and you have to work with what you get. Sometimes you ask for more and you may get a little more, but you have to deal with what is presented to you, because this commission that I know has not gone behind the scenes to discover anything. It really deals with what information comes to it.

Mrs Marland: I will be brief. I do not live in Metro so you, as a police commissioner, do not represent policing where I live. When you are appointed to the police commission, I do not know whether you take an oath or not. But when you were appointed, did you see that you were appointed to represent the interests of the broad community of Metropolitan Toronto or do you see your appointment as representing the group on whose behalf you are speaking today?

Mr Williams: I think I answered that already when I said that I view myself as a full commissioner representing the full range of issues with which police commissions are concerned in the municipality. I said I bring, in addition, a special knowledge of particular groups and particular communities.

Mrs Marland: So when you became a police commissioner, you were not asked to—I am comparing it. I have such a high respect for police commissions and their terribly important role for all of us. I respect them the way I do the bench, for example. I thought, if that was an appointment that we received, that we would then have to relinquish some of our opportunities to be directly representative of individual interests. I think that is the way I am asking the question. But obviously you were not asked to do that.

Mr Williams: No. I do not see myself as leaving the society or as leaving or departing particular communities. I think I have a place in the total society and a place in particular communities within it. I do not see myself as suddenly being transcended or translated or gone to heaven or some other place where I have no connection or relationship to whatever else happens here on earth.

The Chair: Thank you, gentlemen, for your very concise and comprehensive brief. I am sure it will be useful to the committee when we get into our deliberations.

LAW UNION OF ONTARIO

The Chair: The next delegation is from the Law Union of Ontario, Bob Kellerman. I think you understand the ground rules in terms of time period and so forth. We will try to adhere to them, if we can.

Mr Kellerman: I do not intend to read our brief, in any case. I hope that you will read it. My concern is just to draw your attention to particular parts of the brief which we feel are important.

I must say there are many items we did not cover in this brief. It was dashed off because of our concern to take the opportunity to be here. But I think there is much more that can be said about the act, and we definitely have some concerns about inadequacies in the proposed legislation.

The first general point I want to make is that I think this legislation leaves much too much to the regulations. It leaves much too much that is important to be settled in regulations. That is a very serious problem, aside from the fact that it is a very undemocratic method of dealing with this problem. It would seem to me that if the Legislature is serious about solving these serious problems, then why leave some of the most vital matters to be determined by cabinet?

Specifically I am talking about the matters that deal with the use of force in the police. Paragraph 133(1)16 is the part that deals with the authority of cabinet to make regulations with respect to the use of force. This is something that should be in the act. This is the whole source of the problem. How can we leave this for the regulations? It is absurd and it just leaves it to the government to make all the mistakes that have been made before. So I think there is a very serious problem here.

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We have given you several other examples: the code of offences, the course of training. I think everybody recognizes that there is a serious problem with training. It should be dealt with in the act, not in the regulations. We think there is some concern about political activities of police officers and police personnel as well. That too is left for the regulations.

There may be other problems that have been left for the regulations, but these are serious problems, which everybody is saying and claiming are serious, and now they are being left for the regulations. In spite of other groups' attempts, saying, "Let's rush it through, let's pass it," I think these things have to be dealt with in the legislation itself and not left for the regulations in the hope that they will be dealt with properly.

In terms of recruitment and training, I am sure everybody again has come before you and said there is a problem. I think we have an original idea here, maybe not. But certainly I think people are accepting too readily the notion that 21-year-olds are mature enough to be police officers and that 12 years of education is sufficient. I think we can demand much higher standards of police officers. I understand that it would take some time to implement higher standards and take time for people to go through the requisite training.

But police officers do very well in terms of pay scale and there are plenty of people out there who would like to be police officers and who would take the time to qualify themselves as police officers. It is a critical job in this society, a job with tremendous importance and responsibility. I know very few 21-year-olds with grade 12 education who are competent to do the job and who should be entrusted with the responsibility of pulling guns, arresting people, using force on people and having greater authority than the average citizen to exercise over others. I just think this is totally inadequate to suggest that age 21 is going to solve the problem, and grade 12. It is preposterous.

What we suggest is that you demand that everybody be 25 years old—maybe 24, maybe 26, I do not think that is critical, but certainly significantly older—also that the training take

place in community colleges or universities, that specific courses be designated as courses that have to be taken by officers as prerequisites to applying for the position of police officer. The reason we say they should take place in community colleges and universities is because we feel that police officers are too isolated from the community, too isolated from other people. The dangers we have seen in many other countries is that police officers or the military are trained on their own and are inculcated with all kinds of ideas which make them hostile to the very population they are supposed to be protecting.

So the thing is to have them discussing issues about race, about non-violent solutions to problems with other people in society, in classrooms with other 23-year-olds and other 24-year-olds, just to make sure that they have taken the proper courses at universities or at colleges. That is our solution to that problem.

We think the courses that have to be designated have to deal with the problems that we are concerned with, courses that are going to deal with the problems of tolerance, racism, homophobia, sexism. These are the courses that police officers should take and must take, in our opinion, in order to be qualified to exercise the authority they have.

I think we have another idea which maybe other people have proposed. We are suggesting that for the police college there is a serious problem here in section 3, duties and powers of Solicitor General. Clause 3(2)(l) says the Solicitor General shall operate the Ontario Police College. That is all that is said about this college in the whole act.

There is no control over what is going to be taught there, and the fact is that basically what is going on is that the police are educating themselves. My sources tell me, police officers who have been there, that what is going on there is a disaster and that the people, for instance, who are teaching race relations get up there and with a wink, blink and a nod say, "Yes, now we are going to talk about race relations." These are officers who, my sources tell me, have been known for their racist attitudes and now they are the ones who are supposed to be teaching race relations at the college. I do not have this in writing, but I alert you to this problem. The point is, if it is true, there is nothing in this act to ensure that it is not going to be that way.

We propose that there be a board of governors to deal with the Ontario Police College, that there be a civilian board of governors and that its members include the obvious candidates—women, for instance, who are concerned about violence against women, so that we know that what goes on at the college in terms of training about the treatment of rape victims will be dealt with properly. We want to have ethnic minorities on the board of the police college. These people should have control over the curriculum. Of course, there are going to have to be police officers there too, who are concerned with training and skills that all police officers have to have, like making arrests, the use of force and so on.

We obviously feel that there has to be some process also to weed out the people who join the police force because they are attracted to a job which allows them to use force against other people. It is obvious, or it should be obvious, that the police force is going to attract people who were the high school bullies, who want to push people around and want a licence to do it. That does not mean that all the members are like that. I am not suggesting that at all. I am saying that inevitably, though, you will get those types of people applying. There is a problem there.

We welcome the declaration of principles at the beginning, which says that they are going to have respect for the Charter of

Rights and Freedoms and so on. But if you are serious about that, it should be in the act. I think I heard the previous delegation suggest that it should be an offence for police officers to violate people's charter rights. Moreover, on the duties of a police officer, I think what has happened is that the old act has just been reproduced with the old 18th-century ideas about the duties of a police officer and there is nothing in there which suggests that a police officer's duties should include the duty to guarantee and protect the democratic rights of this society. Officers have to understand that is part of their duty, and I am afraid that they often do not.

I say these things from some experience. I have been in the criminal courts for something like 17 years now, so this is not just theoretical experience. I have been seeing what is going on in courts and I talk to many, many officers. There are many, many good officers out there, but there are many officers with very antiquated ideas and very limited notions of what their jobs are. And of course there are many officers who have racist and sexist attitudes. It is inevitable and it is happening.

On the use of force—everyone has spoken to that, I think—it is obvious that the Criminal Code has to be amended. I know that this Legislature cannot do that. I understand there have been recommendations made to Ottawa. We support the changes, the recommendation of the Lewis commission with respect to regulation 790; that is, the recommendation that the use of force be even more restricted than the present guidelines on use of force. Again, we think this should be in the act, not in the regulations. This should be straight in the act. It should be very clear. It is not in the act and it is not adequate to leave it for the regulations.

If you read our brief, you will see that we outline certain principles which we think should be the guiding principles in determining what the adequate guidelines are when writing the law. You will find those on page 5.

Motor vehicle pursuits: I consider that in the area of use of force and I think it is a terrible problem. It is a problem for police officers too. Many, many police officers are injured while involved in pursuits that they should not be carrying on, chasing people for minor offences. I dealt with a case myself where a young man died. He was being pursued by a police officer and the police officer did not even know why he was chasing. He just knew that the young man had not stopped for him. The young man died. What was the point? As it turned out, yes, his licence was suspended. Was it worth his death to chase him for that? The guidelines are inadequate, even the Solicitor General's guidelines now.

The same principle should apply. I cannot see that there can be any justification for police chases except where there is imminent death involved, where somebody is going to get away and people's lives are going to be threatened. It is not important enough even to catch a bank robber to threaten the lives of police officers chasing or innocent bystanders on the streets who are going to be run down or have their motorcycle slammed into as they go through an intersection. We have seen those incidents over and over again. The values are wrong. That is the fundamental problem here. The values are distorted. They do not place enough emphasis on human life and property and too much emphasis on catching the bad guy.

1650

Our concerns about police misconduct are very similar to other people's. We cannot believe there is going to be a proper investigation of misconduct in the police force as long as the investigations are done by the police. It is that simple. I think it

is totally naïve and unrealistic to think otherwise. Part of that problem is that every officer is notified of a complaint against himself and herself. Then the first thing they do of course, if they are people who are dishonest, if they are people who have actually been involved in this conduct, is to cover up the evidence, to destroy the evidence, to rewrite notes. It is inevitable. Everybody who is involved in misconduct and knows that he has been involved in misconduct tends to destroy the evidence against himself.

Police do not give notice to people they are investigating, and they would think we were insane to impose that obligation on them. Why, if they are suspected of wrongdoing, should they get notice that they are being investigated? I cannot see any justification for that at all. It makes no sense in terms of common sense, it makes no sense in terms of good police work. It just should not be done and it should not be happening.

This same danger applies. Unfortunately, the greater the corruption in a police force and the greater the amount of misconduct that is going on, the more likely there is going to be a coverup. So the worse the problem gets, the less effective our system of dealing with misconduct becomes, because inevitably the coverup is going to take place and the proper investigation is not going to take place. So this is a serious problem which we cannot ignore, and I am afraid we cannot say it enough times.

The special investigations unit: It is a nice idea, and we think it is a good idea, but the problem is that the scope is much too narrow, for reasons similar to what I have just said. It leaves out most offences that the police might be involved in. If a police officer is dealing drugs, if a police officer is kidnapping people, if a police officer is extorting, if a police officer is on the take, if a police officer is seeking sexual pleasures, none of those things is going to be investigated by this particular unit. I think we run into the same problem, that these problems will just be ignored and covered up.

We recommend that all suspected criminal activity on the part of the police should be investigated by the special investigations unit. This is page 7. It cannot be otherwise and it is surely naïve to think that this is a solution, to just deal with offences of serious violence and death.

With respect to the boards, we have a similar view, that the boards have been ineffective. I am very concerned. I understand there is a proposed amendment before this committee which is suggesting that the boards should not have control over the day-to-day operations of the police department. At a time when we need more civilian control, somebody is proposing that we have less. I thought the whole exercise here was to try to reassert control over the police force where we see there is a problem. Somehow, somebody is suggesting an amendment which is going to remove control from the board and leave it all in the hands of the police department. I think that is the wrong direction to take.

Somebody just handed me a copy of this. I think it is section 38 or something like that.

Mr Philip: That's of the amendments.

Mr Kellerman: Yes, it is an amendment to section 38, I believe. I may be wrong. It is an amendment to section 31, to add a subsection (3a). It says, "I move that section 31 of the bill be amended by adding the following subsection:

"(3a) the board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force."

That is exactly the wrong way to move. This is the whole problem, that the boards are not doing what they are supposed

to do and that they are abdicating their responsibility. I think the big problem was pointed out by Mr Williams. The boards do not have the necessary funding to do what they have to do, and they do not have the staff, so they just sit in the police department and wait for the police to tell them what is going on. That is a very serious problem.

We lastly recommend that they should be out of the police headquarters, because they look like they are captives of the police department. It is totally ridiculous to have the people who are supposed to be in charge of the police and supervising them housed inside the police headquarters. How can any citizen feel that this is a board that is somehow going to deal with problems that arise within the police department?

I hope I have covered everything sufficiently for people to understand why we are dealing with these points.

The Chair: Thank you, Mr Kellerman. We have about 10 minutes for questions which, for the two caucuses here, will make it five minutes for each caucus.

Mr McClelland: We appreciate your being here today and some of your very thoughtful suggestions.

One point immediately is with respect to recruitment and training, recognizing that there are minimum requirements in addition to the age requirements and so forth. I will speak a little bit parochially, if I may, for a moment. The Peel Regional Police Force requires a fairly extensive battery of psychological testing. In your view, is there a process that you think ought to be prescribed as the criteria for all forces, all responsibilities within the forces, or could it be broken down, giving an officer special assignments, special roles, working in special areas? I think, just by way of example, of complexities in terms of race relations that might occur in Kenora versus those which occur in certain areas of Toronto versus certain areas of Brampton or Mississauga, and so it goes. In addition to those minimum requirements, do you see the advisability in some process of implementing special requirements of training?

Mr Kellerman: I would not oppose that. I am suggesting minimum standards here.

Mr McClelland: I understand that.

Mr Kellerman: Of course it would be wonderful if there were additional requirements, where people were in an area where there was a large native population, for instance, that there be requirements that they take courses on native history or something like that, if that is the kind of thing you are suggesting. Otherwise, I think most of the things I am concerned about would apply across the province. The point is that there are race relations problems across this whole country at this point.

Mr McClelland: Of a different nature from place to place.

Mr Kellerman: They are somewhat different, sure.

Mr McClelland: I am somewhat interested in another point you made. I find it curious. Clare Lewis, who chaired, as you well know, the report, was here and gave evidence that he felt, notwithstanding some inadequacies that he felt were present and suggested some improvements, that the act was going a long way, in fact was responding substantially to the recommendations he made. I hear you saying something quite different.

Mr Kellerman: I am, and maybe he is in a different political position than I am and feels the need to say that. I do not know. All I know is that I think this is the view of lawyers who practise criminal law, of the majority of them whom I know. I

do not pretend to speak for everybody. I see this as a real problem myself. I think it is a big problem to have the police investigating themselves at the initial stages and to have them notified that something is going on. I know there is the discretion on the part of the commissioner not to notify, or the person who receives the report, but I do not think that is adequate. I think Mr Lewis is naïve if he thinks it is, even though he has been around a long time and practised criminal law and so on. I just do not buy that. That is just not the way I see people functioning. If you know the way people who commit offences operate, and police officers are no different, when they have done something wrong, they are going to make attempts to cover things up and to patch up their notebooks if necessary. It is ridiculous.

Mr D. R. Cooke: I agree with Mr Kellerman. If there is anybody in this room who can give a defence of subsection 78(1), I would like to hear it. It seems to me that we should be looking at redrafting that very carefully. I appreciate your bringing it to our attention. To my knowledge, you are the first witness who has. It just does not make sense to give notice at that time in the exercise.

1700

Mr Kellermann: It is an attempt to be fair, but it goes beyond the duties of fairness. Nobody investigating a crime would ever send a note: "We are investigating a fraud. We think you might be involved in something." They go and get a search warrant and they take you by surprise.

Mr D. R. Cooke: And the police who are doing internal investigations within a department would not be doing that either, I am quite certain.

Mr Kellermann: This assumes that there cannot be corruption because it is saying that the person who receives the complaint at the front desk is not going to be in cahoots on it in this particular instance. It may be that they will say, "Gee, you know, I had better not notify my fellow officer because maybe he will cover things up." It is just as likely that he is going to notify him and may well be involved. It is just naïve.

Mr D. R. Cooke: Or simply being sympathetic to his fellow officer and wanting to warn him.

Mr Kellermann: Sure.

Mr D. R. Cooke: I think we should look at that.

The Chair: If I can interrupt you for a minute, I think Mr McClelland had a supplementary to the question you just finished.

Mr McClelland: It is one that I think fits. To your knowledge—because I confess total ignorance—is there greater latitude given to one investigating a police officer? I am wondering about the history. Are you aware of the history, the evolution of the section? I am just curious if anybody in here would know that. You yourself, having raised the issue, might know that there is a rationale and a reason that was put in. It seems to me that there might be some balance there, and I am wondering if you knew what it might be.

Mr Kellermann: I do not think so. If you want to look into it, my own suspicion is that the police have a lot of power in this province and they have a good lobby and this is something that they managed to get in there. I think that is what it is about.

Mr D. R. Cooke: Perhaps we can ask some of the police lobbyists, supposing they come along.

Mr Kellermann: If you can get a justification.

Mr D. R. Cooke: If they see any need to keep it anyway.

My other question had to do with the police college. We have had the submission made, I think, that the Ontario Police College should be more like a community college. I am not sure whether that is suggesting it should not be as isolated as it is. Now we do have, of course, criminology courses in community colleges, then you become a police officer and then you go off to the Ontario Police College. How would you respond to that?

Mr Kellermann: I think the problem is that even in the community colleges they have these law enforcement courses. Everybody in the course is going into law enforcement, and I think that is a problem, that the officers are isolated from other students with other ideas. I think it is better if they just take regular courses which deal with these problems that have to be dealt with; in other words, that they know that if they are interested in becoming a police officer, they can take the following courses at Seneca, Centennial, the University of Toronto, whatever, and that there are certain prerequisites and then when they have done those they can apply. I think that is preferable to isolating them.

Mr D. R. Cooke: I think a lot of community college students are interested perhaps in other things, probation officers and things of that nature. But the sense of Aylmer seems to be a very isolated thing that maybe is building the weave-in concept.

Mr Kellermann: I definitely think the Aylmer thing is a problem, and it should be a short course later if it is necessary to teach how to take fingerprints and stuff like that.

Mr D. R. Cooke: You are saying that the college should have a board of community governors.

Mr Kellermann: I think so still, for sure.

Mr Philip: I share the interest of some of my colleagues in your comments on section 78. Do you practise before the Ontario Human Rights Commission?

Mr Kellermann: I have, but not that much.

Mr Philip: I think it is a matter that we should do some research on, but it seems to me that the Ontario Human Rights Commission gives notice and the Ombudsman gives notice, and I am wondering what distinction you are making. One of the points I have been making is that this legislation does not behave in the same way as the Ombudsman Act and the human rights commission, that both of those have a lot more powers than the public complaints commissioner. But on this section, it seems to mirror what I recall as the operations. I am wondering if you are saying it should not mirror those?

Mr Kellermann: If it does, it should not. Maybe you have to draw that distinction, but quite often complaints against the police have to do with criminal offences. I think the better analogy is the way that criminal offences are normally dealt with. The way criminal offences are normally dealt with is that notice is not given to the person under investigation. Sometimes it is. Sometimes the police just show up and say, "We want to ask you some questions." But in the best police work they do not; they get the evidence first.

Mr Philip: Are you saying that because the initial complaint is not usually made with the public complaints commis-

sion itself but rather with other persons—usually a police officer is the intake at the very early stages of the investigation—those people then are not in a position to decide, at that point in time, whether or not some of the complaints would be of a criminal nature rather than a breach of conduct?

Mr Kellermann: If you were going to have two different rules, one for the situation where it may be criminal and a different system for those which are not, maybe you could do that. That was not my point, because I was not thinking of that distinction. You realize also that even where a person goes first to the complaints commission, the complaints commissioner has to send notice to the bureau and the officer gets notice anyway. Even when the person chooses not to go to the police complaints bureau first but goes to the complaints commissioner, there is a requirement in the act that notice of the complaint be sent to the chief of police and so on.

I just do not see why, to be safe, in this society, in a democratic society we cannot let other people investigate the police. I do not know why the police have to be investigating themselves and what principle there is that defends that notion.

Mr Philip: I understand that point. But the point you are making under section 78 is that there may well be a criminal offence and the offender, or potential offender or accused, if I might use that term, is being notified whereas the accused in any other criminal offence is not notified.

Mr Kellermann: For sure that is one of the points I am making. For sure that is part of the argument.

Mr Philip: One last question: I find the rest of your brief interesting, but then you get into this one paragraph that kind of hits me between the eyes. It says on page 3:

"Finally, there must be a system in place to weed out those who are psychologically unfit to carry a gun and be the custodians of these exceptional powers. Police forces inevitably attract the high school bully who is looking for a licence to abuse others."

I find the language somewhat excessive, to use a polite term. Are you saying that—

Mr Kellermann: I am not saying that at all. I do not know if you heard my remarks.

Mr Philip: Are you saying that the personnel departments in police forces are not sophisticated enough to find out if a kid or an applicant has been a bully and to weed these people out?

Mr Kellermann: I doubt very much if they are. A member here, Mr McClelland, was saying that in Peel, for instance, they do a battery of psychological tests and so on. I think this is a recent development in some places, but I think the history of policing in Ontario is not to go back to the high school and find out if the kid was a bully in the schoolyard. I think, unfortunately, there is a history in Ontario also, and elsewhere, of police using excessive force. That is what we are dealing with. So if we see there is a problem, then obviously they are not weeding out the people. I am not saying the police department only attracts those people and no others. It attracts also people who want to serve the community and are very gentle, good people.

I am saying that inevitably those kinds of jobs are going to attract those kinds of people, and unfortunately I think there is a struggle within the police department that nobody among the membership talks about, and we only hear one side of it. I think there are those officers, because I have spoken to them and I have taught courses where they have spoken to me. I speak to them on the job and they say to me, "We don't like the way

Officer So-and-so deals with it." Even officers in the hallway at the court say to you, "He's a little heavy-handed."

There is a struggle. They cannot just sort of deal with that. There is not a system in place. I am afraid that there are people in power within the police department who have the wrong values and the wrong ideas. We have to at least start at the bottom, in our recruiting, to make the overwhelming majority people who are not going to be like that in the future and hope that the others retire and that in the future we do not get the wrong types.

1710

Mr Philip: Are there psychological tests that are proven valid enough to weed out the Rambos you say are entering the police force?

Mr Kellermann: I really cannot say.

The Chair: We have run out of time. We are getting backed up here a bit. I do want to thank Mr Kellermann, on behalf of the committee members, for his brief and his comments in response to the questions. I am sure they will be useful to the committee.

Mr Kellermann: Thank you. I know it has been a long day for you people.

PINKERTON'S OF CANADA LTD;
ASSOCIATION OF INVESTIGATOR AND
GUARD AGENCIES OF ONTARIO

The Chair: Our next presenter will be from Pinkerton's of Canada Ltd, Peter Watson, vice-president of operations for the Toronto region.

Mr Watson: Thank you, Mr Chairman. I will, in fact, be brief.

As the vice-president of operations for Pinkerton's of Canada Ltd and as president of the Association of Investigator and Guard Agencies of Ontario, I represent a sector of Ontario business that works in parallel to the police throughout the province.

Pinkerton's and the association think there are sections of the act that require clarification or change. Specifically, they are:

Part I, section 5, paragraph 4: "With the commission's approval, the municipality may adopt a different method of providing police services."

We feel that this paragraph should allow for contracting out of police services but should be limited to individuals and companies licensed under the Private Investigators and Security Guards Act. I am not sure if you gentlemen are aware, but there is an act to regulate us. It is overseen by the Ontario Provincial Police. It governs who may work and what qualifications and kinds of regulations we work under.

The second area of clarification is in subsection 13(1), special areas. If an area is designated as being a special area that cannot afford to pay for the policing, then the OPP is designated as being the people who will police and a bill will be presented to this special area or business. We feel that the local police force would be the ones who would work in lieu of the OPP, or as a second and, we feel, a viable option, that private contract security could fulfil some of the sections and do it for less money.

The third area, in subsection 30(1), is that, "A board may contract, sue and be sued in its own name."

This area, to our thinking, deals specifically with police working paid duties. A police officer who works a paid duty, which is covered under section 46, paragraphs 1 and 2, is in direct competition with our industry. That competition, we feel, is completely unfair in that the police officer is trained, uniformed and covered for liability at taxpayers' expense. In light of the above, we feel that paid duty should be completely eliminated or confined only to areas where the Highway Traffic Act comes into play or where large crowd control is required.

To sum up our feelings in general, we feel that there is a vital resource that is being overlooked with respect to policing in Ontario. With constantly inflating policing costs, contract security is a viable and less costly means of augmenting police services in Ontario.

Mr Runciman: I just came in at the tail end of this. I apologize. I am just curious about how some of this would perhaps conflict with police associations, which are the answer for unions. Would that not present some problems for them?

Mr Watson: The problems that we have run into recently with the police association is that Pinkerton's has presently before the Metro police commission a proposal to do court security. This would represent a substantial undertaking on our part and a complete change in doctrine, shall we say, at the Metro level. The police association would obviously lose membership, and I can understand where it would be concerned. We feel that we can provide a comparable, if not better, service for less money. The bottom line, I think, in this whole thing is, first of all, the quality of service and, second, how much does it cost. We believe that we can provide, as I said, a comparable service at a lesser dollar value.

The police association, although it may have a concern, is in fact an association and not a union. Membership is only required if you are a practising police officer or work within that field and are controlled by the police. We would propose in our submission to Metropolitan Toronto to take over court security, for instance, and that we would be employed by Metro and not by the police at all.

The Chair: Any further questions? If not, then I certainly want to thank Mr Watson for an opportunity for us to catch up on our scheduling.

Mr Philip: I had some questions.

The Chair: Did you really?

Mr Philip: I just find your brief a little hard to take. I have been in the United States and there are these private Rambos with guns kicking kids out of the pool. I really wonder whether you want a private police force like that. I would at least like to be assured that whoever is going around with the authority of a police officer is paid a little bit more than minimum wage and has proper training in some kind of accredited course. I just find what you are saying a little hard to accept. I think the police forces would also find it a little hard to accept.

The Chair: Is that a question, Mr Philip?

Mr Watson: I can understand where you would have difficulty accepting that.

First of all, we are not the United States, as I am sure you will appreciate. Our police and our security industry are regulated, to my mind, far more thoroughly than the American experience is.

Second, the age of the minimum-wage security guard is rapidly changing. Within the last three years, there has been a

Canadian national standard for security guard training. We have recently submitted a proposal to the Attorney General for changes to the act to require mandatory training, mandatory guidelines, a lot of changes that would affect the industry in general and the people who could work in it in particular, not just the guards themselves but the agencies that are allowed to operate.

We have been victims, shall we say, of too much competition and a very bad past track record. Our industry is trying to improve. We are becoming more professional. There are more qualified people. We talked about community colleges earlier. I am on the board of advisers for Loyalist College in Belleville. One of the topics we discussed at our last meeting was what changes should they make in their course to make their graduates in law and security more viable in the marketplace today. It is not just how to be a cop or a jail guard or a customs agent; it is how to fit into the world in general, and specifically in the policing area, by providing more broad strokes for educating these people.

Mr Philip: The fellow who supposedly protects my life from an assassin or a bomb carrier at the airport is still being paid minimum wage at the moment, and I really wonder how much confidence I can have with our federal colleagues through the tendering process. You are right, one of the problems is the competitive process. Maybe this is too important an industry, at least in certain circumstances, if there are going to be private security people, not to set certain standards, qualifications which would eliminate some of the problems that I have when I go through that turnstile at the airport and know that the poor guy is there while he is looking for another job because he is earning the minimum wage.

Mr Watson: The guard at the airport does in fact make about \$3 an hour more than the minimum wage. But we encourage clients, government, all levels to set stringent specifications and pay rates. We would love to have all of those things set. Quite frankly, my company will not bid in a competition with the provincial or the federal government because they always take the lowest bid. We will not play that game any more because of the track record that has been there before and because of the problems it creates for our business. We will not play in that game. More and more companies are getting that way. If specifications and standards were set, then we would be more than happy to play within those rules.

The Chair: Once again, thank you very much for your concise brief. We appreciate your submission.

1720

UNION OF ONTARIO INDIANS

The Chair: Our next presenter will be from the Union of Ontario Indians, Joe Miskokomon, grand council chief. As you probably heard, we allow up to 30 minutes per delegation. If you can keep within that time frame, we would appreciate it. Please proceed.

Chief Miskokomon: I would like to thank the members of the committee for allowing us to appear here today.

The Anishinabek nation, represented by the Union of Ontario Indians, is a federation of 43 first nations whose homeland in Ontario stretches from the Hudson Bay watershed to the American borders and from Windsor to the Ottawa Valley. Our people number around 30,000 and are members of the Chip-

pewa, Ojibway, Odawa, Delaware, Pottawatomi and Algonquin nations.

In 1980, prior to the Constitution Act of 1982 and long before the first ministers' conferences, our chiefs and elders in assembly stated: "We are a distinct people. We have a distinct territory, and our own lands. We have our own laws, languages and forms of government. We survive as nations today."

On behalf of the Anishinabek nation, I would like to thank you for the opportunity to appear before the standing committee on administration of justice to voice our concerns about the proposed Police Services Act.

For the past several years many first nations in Ontario, including 22 of those represented by the Union of Ontario Indians, have been participating in the Ontario first nations policing arrangements. This arrangement is renewed annually by tripartite agreement. Under this system, first nations hire Indian people to provide policing services on reserve territories. The system is currently managed by local police governing authorities in co-operation with the Ontario Provincial Police who provide training, supervision and administrative support. Initiatives are under way to make training more culturally appropriate to first nations communities.

The Ontario First Nations Police Commission was also established under these arrangements with representation from first nations, federal and provincial governments. The ultimate goal of these arrangements is to transfer total control of first nations policing to first nations, and some have already instituted their own regional arrangements. The Union of Ontario Indians is in the process of establishing an Anishinabek police authority, the first step of which will be a police pilot project involving four of our member first nations.

I would like to concentrate on section 54 of the Police Services Act, which will recognize the existence and status of first nations constables as distinct from the OPP special constables.

This is a creative step by the Ontario government into the obscure zone of jurisdiction concerning the constitutional responsibility to protect Indian communities. If by proposing section 54 the Ontario government would purport to occupy that field, the act is sadly lacking in content and jurisdiction to do so. However, if this step is in the spirit of co-operative federalism, it may have much merit. If it is a co-operative step towards tripartite policing of Indian communities, the section should clearly say so and be better designed to interface with laws from the federal and Indian parties.

By any measure of the purpose of section 54, it fails to address some important topics.

It contains no recognition of the Ontario First Nations Police Commission, nor of the tripartite Ontario first nations policing arrangements.

First nations constables are not given full police officer status. This is unacceptable in the long term, as first nations constables must have both the respect of their communities and their peers as police officers and must be legitimately authorized to enforce all laws. An Indian police commission or commissions must be established, with powers and authorities equivalent to those of a municipal police force or the OPP, in order to remove control of the first nations constables from the OPP and vest it with the communities being policed. One method of giving first nations constables full police officer status is a joint appointment under first nation council, federal and provincial authority. This triple authorization would also remove any ambiguity concerning the laws and regulations first nations constables are able to legally enforce. Federal and

provincial legislation, as well as first nations bylaws and even-tual legislation, would all be covered.

It is by no means clear whether the employment equity sections would apply to first nations constables. Employment equity should call for equal job security for persons performing equal tasks.

The required oath or affirmation of a police officer must be culturally appropriate. Allegiance to the Queen, for example, may not necessarily be acceptable.

The bill must protect professional security of the officers and yet be open-ended to be able to interface with future federal and Indian law that would provide fundamental fairness and professional security to the serving police persons.

At present, no federal legislation is proposed in this field with which the bill can interact. Accordingly, it must be left open-ended to grow with the tripartite process.

There are a number of issues that are better dealt with in the Ontario first nations policing agreement than within the Ontario Police Services Act. The most fundamental issue is the question of who is the boss. The constables report directly to the first nations council via the local police governing authority. They are not to be responsible to the local OPP detachment and are only to come under the authority of the OPP commissioner through the first nations council and only until such time as effective first nations police commissions can be established. That first nations authority is not recognized is shown in section 54, where the commissioner must have the approval of the first nations council to appoint the constables but not for their suspension or termination. This must be corrected.

The Union of Ontario Indians supports Bill 107 to the extent that the bill attempts to develop statutory support for Ontario co-operation with Indian governments and the federal government to develop first nations policing. The union is, however, concerned that the bill does not go far enough to recognize and stabilize the development of first nations policing as a component of Indian self-government within the tripartite process.

The Union of Ontario Indians strongly recommends that subsection 54(7) be included, stating that, "This act will not supersede any provision of the Ontario first nations policing agreement, or any current or future regional agreement, as negotiated by the first nations involved and the authorized representatives of the federal government and the government of Ontario." Inclusion of this statement would reassure the first nations that this act is not intended as a provincial attempt to maintain or gain control over first nations policing.

Mr McClelland: You say on page 2 that first nations constables are not given full police officer status, and I recognize your concern there. Can you enlighten me somewhat? My understanding is—and I may be totally wrong—that while a first nations constable is on a reserve, he or she does have full status, confined geographically. Am I wrong in my understanding of that?

Chief Miskokomon: That is correct. The extent of authority has never been legally challenged in terms of what authority that first nations constable has with the enforcement of provincial statutes and laws in the Indian communities. In some Indian communities some of the constables have been used to go beyond just enforcement of the normal Highway Traffic Act or Criminal Code. They have been used to begin actions in terms of regulations of the Ministry of Natural Resources for hunting and fishing violations. We have grave

concern that, in the void that the Indian constables are in, they may not have jurisdiction within that.

Further to that, local OPP detachments, because of the man-hour utilization and patrolling methods within their district, in fact—and we know this for sure—have been pulling the Indian police off reserves to patrol sections of the highway where they have men missing or who are not on the job for whatever reason, sickness or whatever, and then utilizing that as an entire complement within the whole district. We feel that oversteps the boundaries of their jurisdiction in terms of patrolling the highways and so on and is at the least not within the spirit or intent of the agreement.

Mr McClelland: Okay, that is helpful to me.

1730

Mr Runciman: I am just curious. The reserve in the Cornwall area that had so many problems recently—and I guess they primarily focused on the question of gambling. If things had been different with respect to the ability of the first nations police to deal with that, perhaps have the powers you are suggesting they have, I am just wondering if you think that could have been handled differently, if there would have been a different result than the fact that we had to have people on a lawless rampage through the reserve on both the American and Canadian sides and all sorts of things occurring before the OPP, the RCMP and US state police had to move in. I just wonder if you have any comments on that situation, if you can see changes that could prevent that sort of thing occurring in the future.

Chief Miskokomon: Even from my vantage point, 20-20 hindsight is not necessarily there on that situation. I think there were a number of factors that contributed and perhaps policing would be one. If we could concentrate our thoughts, though, towards that type of situation, all throughout—

Mr Runciman: My point was that we had native forces policing the reserve and the situation got out of hand. In fact, it was a lawless sort of situation with people firing heavy weapons and so on. I am just wondering why you feel that occurred, if you have any view. Perhaps it is because the police force itself did not feel it had the necessary tools, the ability, the authorization or what have you to handle it in a more effective way.

Chief Miskokomon: I think the first problem that arises is the jurisdictional aspect in terms of gaming, and that is a situation in many communities today, the whole question of responsibility for controlling gaming and the jurisdictional control that rests with that. It is at best dubious to say that the provincial government has that jurisdiction.

Even recognizing that they may hold some degree of jurisdiction over that, it is highly questionable whether or not the Indian constables could act in that situation, the problem being that policing is just not in isolation by itself. There are a lot of competing jurisdictions within Indian communities and there is a need to begin to sort that out.

One of the difficulties that exist with being able to police the situation that occurred is that when there are competing federal and provincial and Indian jurisdictions over a number of issues, be it gaming, hunting and fishing, liquor offences or whatever, the police are left in a quandary as to what to do.

They have the local detachment giving instructions on the one side, saying, "Charge, do this, do that, do something else." Many times the Indian constables do not have their allegiance to the province or to the federal government. They feel they are

an employee of that community and they want to take their instructions from there.

On the other hand, when Indian people look towards the federal government to say clearly within the Indian Act, in order to regulate gaming or hunting or fishing or a number of other things, that the power is there for the first nations government to do that, when bylaws are passed and duly put forward in a correct legal context and manner, the federal government turns them down. It says, "The provincial government has something like that anyway, so we'll just let the province do that."

There has not been a clear statement to the extent that the government wants to look at self-government in Indian communities. That is why we say within this brief that policing and the control of policing is a jurisdictional question that has to be dealt with in a self-government context. So situated within a situation that has been in front of the national press for a considerable length of time, it has also been in front of governments for a long time.

We have been saying for over a decade now, "You have to address the self-government propositions and negotiations that we have put forward." It is a constitutional issue. For the very same reason, many of our first nations people from Ontario even today within another committee room are saying: "We do not support Meech Lake. It does not address the aboriginal concerns and issues that deal with jurisdiction over our own land and over our own people."

There are big questions wrapped up in that question you asked. I do not want to get out of the context of what we are here to do today, but a lot of that has to do with an attitude and also with the legal questions and jurisdictions which this act and others are attempting to address.

Mr Philip: I was just saying to Mr Kanter earlier, and he agreed with me, that I wished Mr Pouliot were here because he is so much more knowledgeable of these issues and I am sure he would have a great number of questions. I will be giving him a copy of your brief.

I gather you are saying that subsection 54(4), which gives the commission the power to suspend and terminate the appointment of first nations constables, may be in violation of the first nations policing agreement within the Ontario Police Services Act. Are there any other parts of this act, as you have read it, that you feel may be in violation of any treaty agreement negotiated with either the federal government or the provincial government?

Chief Miskokomon: We believe—it is a legal opinion that has been given to us, and to some degree it has been agreed with by the Solicitor General's people—that much of this act does not apply to us, where there is already a tripartite policing agreement worked out. What we are suggesting is that there are good elements to this and we would like to see it improved if in fact section 54 is going to go forward. There are some areas that we feel need improvement, such as the ability to hire and fire without first nations consent.

Who is the boss of an Indian cop when it comes down to a situation like the one Mr Runciman talked about? The whole question is, where does this Indian cop take his direction from? Does he take it from the local OPP detachment, the sergeant or the corporal in charge there, or does he take it from the Indian community, from the first nations council? There is the whole question of where that takes place.

The second part of your question deals with the other issue that we have not looked at, which is whether there is anything

within this act that may conflict with treaty or aboriginal rights. There was a recent decision brought down by the Supreme Court of Canada that dealt with fishing. There were actually two decisions brought forward within the last two weeks. One was the Sparrow case and the other was the Sioui case from Quebec, which said primarily that no provincial law can contravene a treaty. This is a significant step forward when past positions of governments have been that the province can decide whether treaty rights do or do not exist in modern day. We have yet to look at it from that perspective.

The other perspective is that if there are rights being violated and there are measures that have to be taken, Indians will have first preference over that. So in regard to the right of Indians, let's say, to fish, if the OPP and the Ministry of Natural Resources are instructing Indian police constables to charge for fishing or whatever, that may be in direct violation of treaty rights. In turn, we do not believe that this act has the power and ability to overturn those treaty rights. In fact, police officers may be used in an unlawful way by government interpretation to supersede our treaty rights.

Mr Philip: Perhaps the minister and his staff can give us some advice on their interpretation of this during the clause-by-clause. We thank you for your presentation.

The Chair: Thank you for your brief and for your comments here today. I know that they will be very helpful to the committee as we embark upon our discussions and clause-by-clause analysis of the bill.

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HARAMBEE CENTRES CANADA, TORONTO CHAPTER

The Chair: Our next presenters are from Harambee Centres Canada. Dr Quamina and Dr Agard. Before you get under way, I would like to indicate that a bell may ring calling us to a vote in the House some time between now and 6 o'clock. If that happens, we will adjourn for about 10 or 15 minutes and then return and continue.

Dr Agard: We would like to thank you for the opportunity to appear before you. I would like to introduce myself and my co-presenter. I am Dr Ralph Agard, a member of the Race Relations and Policing Task Force. Dr Quamina is a member of our board and he has the responsibility for race relations and policing. He also appeared before the task force and made a presentation on behalf of Harambee Centres Canada.

By way of information, Harambee Centres Canada is the only social service agency within the black community. It primarily serves black and Caribbean families in need of individual and family counselling. As well we do some educational support work, primarily in the North York Board of Education. We have about 150 ongoing members and we have a full-time staff.

I am the executive director of that agency and, as I indicated, Dr Quamina is on our board and he is responsible for these matters. We are going to share the time allotted to us. I would like to turn the first part of our presentation over to Dr Quamina.

Dr Quamina: Harambee appeared before the task force on 1 February 1989 and made a submission that said, among other things, we were concerned like other members in society as to what this strange malady is that seems to afflict police guns, making them go off in the presence of black people. We asked

the point very clearly: Why do armed white policemen find themselves terrified of unarmed black men?

We do not know whether a year later we have necessarily answered the question and we do not suggest to you that the passage of this bill is in itself necessarily the answer to this question. What we understand, however, is that the government has now found it necessary, following this last shooting, to make some very serious and responsible decisions. It is in this respect that we are here today.

I want to divide this presentation into just four parts for myself, and my colleague Dr Agard is going to deal with his section of it.

One of the things that we are concerned with is the very question of the nature of policing in society. We understand quite clearly the findings of reports that go back as far as 1974 that in fact situate the actual work done by police to be somewhere in the area of 80% as actual service, work that does not respond to crime or criminal kinds of activities. We are comfortable with some update on that kind of information that the entire police force is not involved in this kind of crime or crime-related activities. In this sense, we have a feeling that our experience with the police force would vary very significantly from perhaps the wider society, the one that says, "We are part of that 80% or 90% in the service delivery of police work."

We do not want to leave the impression that our concerns in terms of the activities as we raise them, racism in the police force, in fact must be subordinated in any way to the larger questions. What is meant by this is very simply, is it possible for us to have a population of some 6,000 out of a much larger population of some 30 million and say to us that this population somehow is anaesthetized, immunized, from any or all of the other ills taking place in society? So while we may not begin by casting aspersions, we want to begin by saying that these members of the police force are themselves trained by the kindergarten, the primary schools, the secondary schools and, in instances, the universities. We expect them to be part of that education throughout society. What we would expect, therefore, to happen is that we could be treated within society with the same equality as all other members of the society.

To date, we have some real concerns about how this treatment is acted out. More precisely, we ask the question over and over again, who is in charge of the police force? It is one of those questions whenever something of this nature happens, we become frightened as to whether the chair of the police commission, the commissioners themselves, the police chief, are really in competition for leadership and responsibility with the president of the police association. We regard very highly the work that must be done by the president of the association. That is work that must continue to uphold the morale and the integrity of the police force. But is this the same kind of leadership that we in the community must expect from the chair of the police commission, the police commissioners and the police chief?

One of the things perhaps that the act might allow us to identify is who is in charge of the police force. Is it that we must always be threatened by police action before we do something? Is it that we must expect that once we raise the question of discipline or indiscipline, racism or discrimination, we must then be threatened with the force of silence from the police force? I would like, perhaps in part of the preamble to the Police Act, that this question of who is in charge be looked at very seriously and addressed.

It seems to me that we also can raise other kinds of questions, one of which is coming to us very deliberately and direct-

ly known as harassment, harassment as experienced by black people, by people who say, "We feel different when police approach us." You may say that this is a matter of perception. Some of the callers have argued on the radio stations, "If we do nothing wrong, we have nothing to fear." I suggest to you that this fear is not entirely unfounded.

I would like to leave with your committee for a reference as an exhibit one of the circulars appearing by the Metropolitan Toronto Police Force, a circular dated 18 July 1988 which is addressed "To All Store Employees." I speak precisely of the language with which we are addressed as black people, directed to us by the Metropolitan Toronto Police Force.

It states essentially that there are reports of shoplifting and loitering in stores, and when this happens, to keep an eye out for those who come in. I read precisely the sentence here: "The suspects in these entries," meaning the premises, "are usually young blacks." This is the statement from Metro's finest, and I leave it with you in the event that you have not seen this before this evening.

I would wish perhaps as part of your deliberations to see what kind of sanctioning, if any, ought to be directed against a police force that could use such big stationery to merely single out a group of people, specifically black people in this instance, and we do not need to be polite about this feeling any more. When I walk into the store, the store owners are advised by the police, those who are here to serve and protect, to look out for me and my kind. I would like somewhere along the line in your deliberations for a commentary to be made on this kind of activity because the significance of this document is brought forward much later when it comes through the kind of statistics that one supervisor, Fantino, was asked to reply to in the North York board.

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The specific of the statistics was an inquiry from the North York council to find out about the crime situation in North York. The police superintendent, in his wisdom, came back with a manual collection of data identifying black people as the crimeholders and crime perpetrators in North York. It was not, therefore, unusual to have this very argument a year later, this very statistic that we have considered both erroneous and senseless, repeated by some of our finest leaders, in this case in the person of the Metro chair.

We do not need to detail for you the responses and apologies that followed, but I think it is sufficient enough for you to remember that this was part of the sense of putting us in statistics and categories in society. Harassment therefore becomes part and parcel of a feeling of police reporting and identification, statistics collected by police officers and, more important, the pet peeve that police officers have been so willing to tell us when they meet us that they are here in response to a report that a crime has been committed.

Since this may not find comfort in the act as such, I suggest we may need to look in the regulations at some of the reasons why the police would stop someone. And this instant remark, "I am stopping you because of a report"—we need to be reassured by the public that this report was not concocted when my colour passed his windshield and I looked like somebody who looked like a statistic, as both himself and the chair had reported some time earlier.

Specifically, the regulations might say to give us the evidentiary material, that which allows us to believe that this thing itself could be pulled out from the computer—we know the technology is in place—that would say yes, a report in fact

did come over at 6:05 indicating that a robbery had been committed and the suspects look like A, B, C and D.

In this sense then, the police officer is acting within his or her own right and we have a freedom of assurance that this was not a mistaken identity once again, or we did not just look like somebody else again, or he was not just passing and happened to witness us again, but he is in fact following a lawful command and a lawful report.

I am going to end on two notes. One has to do with the very question of employment equity as we understand it. The pet peeve is that we need to somehow be conceived police, be born police, be bred police and grow up to be police. So in the event we choose to come in at entry points, this seems to be the antithesis to what a good police officer should be. In a way, one almost thinks about the question of the king and queen: One is born a prince or princess. I do not suggest for one moment an industry as large as this Metro force needs to play such silly games and advance such silly arguments.

I think we could be trained to enter this police force with equal competence, as any of the major corporations in Japan, France, Germany or the United States have in fact done. My feelings are that we need to look at the specific question of employment equity when we agree on such things as the target dates—and I notice the act was very clear not to suggest those—when we can have a sense of compliance. We need to be reassured that we need a revision, for example, of the regulations in another five years to see again what has happened since we have met and to see if any of the goals that we have argued for today and in the past months have in fact come close to our own ambitions and dreams.

I will leave you on the note that I suspect one of things we are asking for with the province-wide independent investigative body is that the police officer must also be reassured that his or her action was also consistent with the decision that was made. So the findings of this independent investigative body will in fact not only alleviate the fears that the public somehow becomes now disenchanted, what it will also say to the police officer is: "You did what was reasonable and just. You did what was expected of you under the circumstances."

In the absence of anything that suggests fairness in the findings and fairness in the investigations, we are yet to be reassured that merely the police chief saying that this police officer acted under conditions A or B, or the police officer merely saying that he acted out of fear and/or suspicion, or the way your programs continue to remind us how it is as violators of the crime we should be punished, I think the investigative body should in fact give us a standard of measurement so that the victim's relatives and friends could at least be reassured that this final act, though fatal, was perhaps necessary.

I thank you and I turn it over now to my co-presenter.

Dr Agard: Dr Quamina has provided an overview of the overall perspective of Harambee Centres Canada. I think my task is to specifically address some of the issues related to the act itself and some recommendations that we would like to make. We would like to commend the bringing forward of this act. I think in fact it was overdue. But I would like to place that within a certain context.

We recognize that the Police Services Act in fact deals with more than just race relations and policing. However, in many respects many other aspects of the act impinge upon the relationship between ourselves, in terms of the black community, and police. We can begin by complimenting the drafting of the legislation. It is long overdue. Those are the kinds of things, but in fact I would like to spend my time specifically

addressing some of the things where we think the act needs to be improved.

My sense is that in terms of our sitting here this afternoon in committee, we all know that was provoked in some respect by the shooting of Marlon Neal. That hurried us into committee. If in fact that is part of the premise of our discussion, then I think we need to put the work of your committee into its correct context. I would like to bring it all in focus by reading to you one of the pages of the task force report, because embodied in this act are a lot of the recommendations of the task force report. I certainly feel quite confident that our work was not necessarily in vain.

Let me read this page so that you in fact get some sense of context when we begin to consider the amendments to the existing act. This is entitled *Breaking the Cycle of Cynicism*:

"Throughout its deliberations, the task force has been haunted by a sense of cynicism." This is on page 33, in the event you might have the report. "This feeling, expressed as doubt that our work will ultimately have an effect, has been voiced by those who made oral and written submissions to the task force, by those few who boycotted it altogether and by the media.

"This cynicism, of course, is not without foundation. Several studies have preceded the work of this task force. In the last 15 years there have been no fewer than five official examinations of issues related, directly or indirectly, to the relationship between the police and minority groups. We have had the report of Cardinal Carter, completed in 1979, and the report of the task force headed by Dr Reva Gerstein in the 1980s. There have also been reports by Pitman, Morand and Maloney. Each of these reports has dealt with some or all policing, recruiting, promotion, training and police-community relations issues. The public perception that little change has resulted from these reports has led to a general loss of faith in the system's ability to deal with problems of race relations."

I think I would like to repeat that: "The public perception that little change has resulted from these reports has led to a general loss of faith in the system's ability to deal with problems of race relations."

"The public is, to some extent, justified in its perceptions. The task force found that many of the recommendations for improving policing and minority relations put forward in the past have never been implemented." I think this puts you in focus.

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Therefore, this perhaps is one of the few opportunities when we can in fact bring about the kind of change that is necessary, that has been recommended over the last 15 years. Therefore, despite the worthiness of the act, we believe that without the Ontario Race Relations and Policing Review Board, which is one of the recommendation of the task force report, that cynicism and that mistrust is not going to disappear. We have to face the reality that over the last 15 years we have put several pieces in place, including the public complaints commission, and we still have the situation that has hurried you here today to discuss this act.

In terms of summary, on that race relations and policing review board, it was recommended that it would be independent of government and that it would also be independent of policing institutions, that its function would be to advise, research, advocate and monitor, most of all, the employment equity programs. I would urge you to consider at some point in time some con-

sideration of establishing the race relations and policing review board.

The second recommendation we would like to make is with respect to the employment equity programs. We support the provisions in the act, but we think that they should be mandatory, that the goals and timetables should in fact be part of the act. One of the things that those of us who have worked with respect to employment equity clearly understand is that it does not happen voluntarily. Unless there are some stringent provisions, those goals could be set but they could easily be explained away. Part of the thinking of the task force at the time was that the Ontario Race Relations and Policing Review Board would assist police establishments, as well as the public, in terms of accountability in ensuring that those things happen.

The other aspect with respect to the employment equity program is that we are asking police institutions to develop employment equity programs and implement employment equity programs. However, we have not necessarily provided them with the resources. The task force had recommended a central hiring pool or recruitment unit and that is not in the act. My sense is that we will continue to have those excuses placed before us. "We cannot find qualified applicants. We have tried. We have done all sorts of things and we still have not been able to find the qualified applicants."

A central recruiting unit will in fact assist in minority police relations because it removes part of that responsibility for direct recruitment from the individual police force. So that, again, is another recommendation.

We are supportive of the provisions in the act with respect to training wherein the Solicitor General shall monitor and provide standards with respect to training as identified in the act. However, we believe that with respect to race relations training in particular, the act should make it mandatory for all senior command and civil authorities to undergo this training. I think, having studied in some respects the manner in which police are currently trained, that is not a requirement. It is left to individual forces and very often that ongoing type of training is not compulsory.

We believe that regulation 790 of the act—this in fact is at times interpreted in several different ways. I should just read the recommendation for you. It is recommendation 35 of the task force report. It reads as follows, "The task force recommends that regulation 790 under the Police Act be amended to require that reports be completed by police officers when any form of force has been used and that such reports be filed with and analysed by the policing services division of the Ministry of the Solicitor General."

We would like to suggest that the interpretation of that regulation be inclusive of the withdrawal of a weapon from a holster. In fact, if you enter my premises at night, at midnight, with your gun drawn, one believes that in fact it is a threatening use of force.

I have heard some police officials within recent times attempting to make a clear distinction between that regulation and the filing of reports with respect to the withdrawal of guns from holsters. I remember the police chief using a naïve explanation before Metro council, that there are several times police officers have to take their weapons out and that this would become an administrative nightmare, because when they come in from lunch, they have to take their weapons out and when they come in in the evening, they have take their weapons out. One assumes that those kinds of things are routine and that is not exactly what we are talking about. So my sense is that this

committee has to clearly enunciate the interpretation of regulation 790.

We are a little dismayed that the act does not encompass much more detail with respect to community policing. My sense is that the future of equitable policing really rests in terms of the nature and the definition of community policing. We have had all kinds of examples. I think the time has come for us to recognize that this is the only way in which we will begin to develop good police-community relations. A community must in fact decide what are the policing priorities within that community. Let me just give you an example of how that should play out.

In the Jane-Finch Mall we hear all kinds of accounts of police harassment of youths who are considered to be obstructing and loitering in the mall. The nature of crime in that area should, through an advisory committee, identify that this is not a policing priority, that breaking and entry should be a policing priority. The community, collectively with the police in that area, should decide what are the policing priorities. We are dismayed in some respect that within the act there is not as much provision for community policing. I think we would be missing the boat if we did not do something to bring in some amendments with respect to community policing.

The next item is with respect to the use of deadly force. We would like again to reinforce the task force's recommendation that deadly use of force be used only in situations where the life of the officer is threatened. Quite clearly, the incidents we have had to date with respect to the use of what would be considered deadly force with members of our community have indicated that officers can continue to justify the use of that force based on the grounds that they thought their life was threatened. We are saying that we must equip our officers much more rigorously in terms of the use of deadly force.

With respect to the special investigatory unit, we would like to recommend that at least two members of the investigatory unit be civilians who have never been involved with policing. We heard all kinds of depositions before the task force with respect to the fact that we can come up with civilians whose expertise would assist in a homicide investigation or any other kind of investigation. You do not necessarily have to be 25 years in homicide to do that job. That, I think, would answer some of the cynicism that has existed in that entire question of who investigates the police.

Last, we would like to leave with you a general consideration. We live in very difficult and troubled times. We believe that this act is perhaps one of the few opportunities we will have as ordinary citizens, as politicians, as employers of a large force, in Metro Toronto in particular of 5,400 men and women, to bring some sense of civility to their actions. You need to recognize that this act is the only way out. Our community has been dealing with the police for at least 25 years. Unless there is some legislative authority that equips our officers to deal with the diverse community we live in, we will continue to have very tenuous relationships between the police and our community.

It is grossly unfair to our officers to put them on the street without giving them the kind of training and the clear kind of definitions with respect to responsibilities and actions that we as citizens would allow in this diverse community.

I thank you very much. We are available for questions.

1810

The Chair: Thank you. We have used up the full 30 minutes, but I am sure there is no objection to continuing for another 10 or 15 minutes for some questions.

Mr Philip: I unfortunately have a meeting to go to, but I would just ask one question. The major criticisms by members of the human rights groups and the visible minority community have been that this bill contains no right for the police complaints commissioner to make inquiries on his own, unlike other ombudsmen in this province; no independent auditing of the police procedures or of the operations of the police; no independent investigations at least at the preliminary stages.

Would you not agree that those are the same major criticisms that were made of the Metropolitan Toronto Police Force Complaints Act when it was first brought in in 1977, revised in 1981, and if so, why should we expect that if the Metropolitan Toronto Police Force Complaints Act has not brought about any kind of satisfactory solution to our problems—why should we believe that this act, which appears to have the same faults, is likely to bring about any kind of satisfactory solution?

Dr Agard: My sense is that the expansion of the public complaints commission Ontario-wide is perhaps a first step, and we would accept that. I too have some problems with respect to the procedure. However, one hopes that as we go along the process would be such that the police have some option of examining the incidents in the case initially. I think that if the public complaints commission exercises its responsibility appropriately, the first step in terms of the complaint and examining the complaint and those kinds of things is a civilian aspect to the complaint. Having done that, I still think that the independence rests with the commission to have some reporting from the police. So that is my sense. I do not know if Dr Quamina wants to add anything to that.

Dr Quamina: There are two things we might want to keep in mind, to the point. We have an opportunity now perhaps to look at what we did yesterday and see how effective was what we did yesterday with all good intentions and purposes and how well it worked.

What we are hearing is that we have had four persons being shot under some circumstances we are not quite sure about. We need to give ourselves again a feeling of confidence that these activities, however they might have been brought on and brought about, were just and fair. The police officers need to be reassured, the police force needs to be reassured and the citizens need to be reassured that this thing itself, what we are calling it is not necessarily what in fact it is.

We have had almost some year and a half now between incident 1 and incident 2, and we are asking ourselves: "Is this really how the law is supposed to act? Could we get something much more speedy than the way we have been having it so far?" What we can do now is put teeth in this legislation. We can, for example, ask that a time frame be placed on situations of this kind. I hasten to admit to you, you understand, the legal implications. Lawyers have cautioned me this sounds like tampering. I am not a lawyer, so I do not have the caution that lawyers have. What I do have is an anxiety at being on the road. If this happens again, we are going to have to go to the lawyers to help us to get out of jail or stay out of prison. So we perhaps need to say, "What can we do now?" I am saying to you we have the opportunity now to do it and to look at what we did yesterday and say, "What could we do differently?" This would be my answer to you.

Mr Philip: I guess my problem is that the reason I voted against the Metro police bill, as did the Liberals at that time, interestingly enough—as a matter of fact, I chaired the hearings in 1977—was that it had all of the faults which they are now

putting into a bill, with the exception of the employment equity provisions perhaps, that they are now spreading to the rest of the province. Why should I have any faith in voting for a bill which spreads to the rest of the province the very things which I said would not work in 1977 and which I think your experience has shown has not worked all that well?

Dr Quamina: If I understand your frustrations in that sense, and you are in the decision-making position, I wish you would appreciate how we feel from the outside, where we do not know who to turn to. This may be perhaps something to urge you on, even to considering what are the good things about this bill that could make it work. I suspect, without myself being here every day, you have been exposed to a good many such arguments and recommendations. In that sense I would urge you then to do what is right, and what is right is to give all of us a sense that it is possible yet to live here and not to be frightened or fearful of this society.

Mr Philip: I guess I am just saying that unless this bill is dramatically amended, I do not see where it does very much. I find it hard then to recommend to my caucus that we support it. Since neither I nor the Liberals could support it in 1977, why should I support it now, unless there are some dramatic changes to it?

Dr Agard: Could I just make one response to that?

The Chair: Certainly.

Dr Agard: My sense is that the complaints process is one in which fair play must prevail, and as such, we have to be fair both to police officers as well as to the citizens of our community. Hopefully the independence of the board itself, in terms of its ability to review cases and to take action, would give citizens some comfort in that process. I think what gives me comfort is the fact that—and this might be a naïve perspective—the police certainly hated the establishment of the public complaints commissioner. They even went on strike with respect to that. My sense is that until such time as we have a better formula, which does not go totally towards an independent civilian kind of process, this is the best we have. We should continue to monitor it, we should continue to work with it.

The other thing is that, hopefully, there are other aspects of police-minority relations that will allow people the comfort level to go forward to the public complaints commission. I do not think you throw the whole thing out simply because it does not totally fit the design. So I would encourage that we make sure we get on with that.

The other point is that when we were in Thunder Bay as part of the Race Relations and Policing Task Force, one of the glaring things that came through was the manner in which police complaints, when handled internally with respect to the native communities, were dispelled. They did not even have a quasi-public complaints process. I think that we would be depriving some of those other municipalities of at least some process other than going to the police station and laying a complaint.

1820

Mr Curling: I really appreciate the fact that you are here because, again, you represent and you are in touch with a certain sector of the black community, especially young blacks who are struggling through a system that is either confusing to them or seems not to be responding to their needs. While you are doing that, you are encountering again young people trying

to understand an enforcement system that is supposed to be fair, and they do not see that to be fair.

One of the things we try—I hope we do this as a committee—is not to be partisan about that. It is unfortunate that the NDP will be seeking to find some escape in which to say, “We won’t support that.”

Mr Philip: Come on. You did not vote for it in 1977. I am just acting as your conscience.

Mr Curling: This is my time and I allowed you to speak, Mr Philip.

Interjection.

The Chair: Mr Curling has the floor.

Mr J. B. Nixon: Mr Philip should be admonished. I would ask, Mr Chairman, that you go to the Speaker and have this man brought to order. I would ask that it is a matter of order and you go to the Speaker to have this man brought to order.

The Chair: I think the Chair is doing a reasonable job of controlling the meeting up to this point. Mr Curling has the floor and I would ask if we could please proceed.

Mr Curling: I think you are doing a wonderful job, Mr Chairman. The fact is too that we never profess as a government that Bill 107 is a perfect bill. That is why we have public hearings and submissions to us.

We want to tell you how much we appreciate some of the discrepancies you may find there, because I really do not think it is a perfect bill. We can sit on the fence for years and say that when we arrive at a perfect bill, then we will introduce one. The Solicitor General has been at all hearings and I think it is just when he was called into cabinet that he has not been here. Even with that, whatever has been submitted here will be brought to his attention and we are listening very carefully. I am not here to defend the government or to defend things that went on in 1977. At least, I cannot. I was not even elected at that time; the nonsense of the other member anyhow.

Come back to a question—because it is better for us politicians to give you speeches and get them into Hansard and things like that, and we play that game when the cameras are here. Mr Kormos and the rest, that is what they do and we do not see them around, like now. I know we are not supposed to point it out, Mr Chairman, but again, there are no opposition members present here.

I respect your presentation, sir, but what concerns me deeply is the role that you play with young people. Could you just in a very short comment tell me some of the damage that this is doing to the young people who feel mistrust, fear? You mentioned fear, you seem to point to that. Has it reached a stage where you feel that we may have to do more than this bill? What strategy do you feel we could come forward with in rebuilding? Because I believe we have a good police force but we have some awful police officers, and we have a good society but we have some awful people within the society.

Dr Agard: With all due respect, if I could make a cursory comment, I recall that it was your drawing the attention of the House to the urgency of this bill that has brought us here. My sense is that one of the things and one of the clear messages that must go to our young people from all members of Parliament from all levels of government is that this is not going to be tolerated.

I think we have a crisis in leadership. We definitely have a crisis in leadership with respect to this issue, with respect to

race. For young black people growing up in this society, they have to begin to ask themselves a question as to, “Do I belong?” I do not want to use your time to go through all the commentary that people at city hall have been making, but that is abominable. It is disgraceful when city officials would make those kinds of statements. In general, I think we need to come out more fervently and clearly identify that we will not tolerate those kinds of—the racism, in effect, that is publicly being demonstrated. That is one.

The second is with respect to our young people. I have been in the business for the last eight years and I have given a lot of time and energy, but for the last 25 or 30 years we have been dealing with all kinds of discrepancies with respect to the manner in which our kids are educated, the manner in which the social service system provides support for us, and hopefully by 23 June we will recognize a distinct society in Quebec. We need to begin to recognize that we have some distinctive cultural underpinnings within our community and they require special services.

At Harambee we currently have 120 cases on the waiting list with respect to child and family services, and it grows every day. The process—and I noted you were involved in part of the lobbying for that—took us almost three and a half years to negotiate. That was three and a half years ago, when we should have been dealing with some of the issues that went untouched.

The education system has failed to recognize that we need to identify that some of our kids have come from culturally different backgrounds and the culture of the school system is very different. All those things spill over as we go along. My point is that we need to have a more comprehensive strategy with respect to our young people and making sure they have equal opportunities.

The last point I would like to make with respect to that is that there is a schism right now between us as a generation and our young people. Part of that comes from the lack of faith in terms of what they have witnessed as we have gone out day after day, weekend after weekend, in meetings and in attempting to lobby people and all of those kinds of things. They have seen the results. I do not know what you do to win them back, other than to develop what I call a didactic strategic plan that pours some resources into those communities and gives those people an opportunity to feel that they belong. I do not think any window dressing and any mayor getting up or anybody saying, “You are here and we love you all,” and that kind of thing, is going to help.

Mr J. B. Nixon: A very quick question. It is really sort of off the police bill. Is there a different sort of experience between a first- and second-generation black kid, a kid who is born here and grows up here and starts in the school system, as opposed to someone who comes here with a family from another country? Can you say there is a qualitatively different experience in the education system and so on?

Dr Agard: The statistics do not bear that out. I think in fact that when we looked at it, logic dictates that this is what should happen, but the statistics do not bear it out. That is what tells us that it is a culturally or racially—something. There are kids who are born here of immigrant parents who continue to have the same kinds of problems. I do not know if Dr Quamina wants to add to that.

Mr J. B. Nixon: Is there enough consistency to say that there is not a significant difference?

Dr Agard: I think the nature of the problems might be different; in terms of the approaches to remediation they might definitely be different. However, the reality is I always tell my son that when he gets to the door for an interview, the guy sitting behind the desk does not know whether he was born here, whether he came yesterday or whether he is here for four or five generations. That, I think, is an integral part of the problem that we are facing. But we certainly have some solu-

tions. We do not have them all. We need to be able to get on with implementing those.

The Chair: Thank you very much on behalf of the members of the committee. I want to thank you for your presentation. I am sure it will be very useful to the committee members when we embark upon our deliberations.

The committee adjourned at 1829.

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J-22 1990



J-22 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Thursday 14 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations
and Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le jeudi 14 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

Président : Robert Chiarelli
Secrétaire : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday 14 June 1990

The committee met at 0916 in committee room 1.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Chair: The standing committee on administration of justice is now in session. The committee is in the process of considering Bill 107, the Police Services Act, 1989, and the report of the Race Relations and Policing Task Force.

CHINESE CANADIAN NATIONAL COUNCIL, TORONTO CHAPTER

The Chair: Our first presenter this morning is from the Chinese Canadian National Council, Toronto chapter—Avvy Go, president. You may be aware that we usually provide 30 minutes per presenter. That includes time for questions. Please proceed.

Ms Go: My name is Avvy Go and I am the president of the Chinese Canadian National Council, Toronto chapter.

First, I have to explain that it was not until yesterday afternoon at 4 o'clock that I knew we might be able to get to speak this morning, so I only prepared a very brief statement. I would like to begin by talking a little bit about the Chinese Canadian National Council and what we do. Then I will read the statement and then I will talk about the case that we were involved with recently involving police violence and harassment by police of citizens.

The Chinese Canadian National Council was formed 10 years ago because of the W5 program which depicted Chinese Canadian students as foreign students who took away seats from Canadians in professional schools. As a result of that, the Chinese community was just outraged by this program and we formed an organization. We forced the producer of this CTV program to give us an apology. After that, CCNC was formed.

The Toronto chapter is one of the 29 chapters of the Chinese Canadian National Council. We are an organization involved with human rights and equality. At the local level, we are involved with a lot of local and provincial issues, such as employment equity, policing and race relations, women's issues and many others. That is a brief history of the CCNC. Now I would like to read out the statement.

The Chinese Canadian National Council, Toronto chapter, expresses its great concern over the series of police shootings of members of the black community in Metropolitan Toronto. We understand and share the frustration voiced by many community leaders over the lack of culturally or racially sensitive policing. Some members of the Chinese community have also complained about language difficulties in contacting police for assistance, as well as police harassment and assault.

While we welcome the initiative of the Solicitor General of Ontario in introducing Bill 107 as a response to the needs and

concerns of various communities, we think that the bill as it stands is inadequate in dealing with most of the burning issues faced by these communities.

In particular, there must be an independent civilian investigative and complaint body to deal with complaints against police officers. The special investigations unit to be established under the current bill is a far cry from what we demand. As well, the fact that it is limited to investigating serious incidents of police misconduct will only hamper the effectiveness of the unit.

In terms of the mandatory employment equity program set up pursuant to the bill, it is our concern that there will be no effective independent enforcement mechanism. The success of such a program will depend solely on the whims of individual police boards. Having witnessed the ongoing protest by police officers against employment equity and race relations programs, it is doubtful whether the well-intended programs will ever get off the ground.

We also demand clarification as to what the race relations training called for by Bill 107 would amount to be. For instance, there is no reference to the nature and length of the mandatory police retraining. As well, there is no independent evaluation of the program established under the bill to train the trainers. That will effectively curtail community input into the content and scope of such programs.

Further, the issue of community-based policing is dealt with in a haphazard manner by Bill 107. What has been called for is including the development of some kind of race relations units within the institution of policing. Yet this component has been left out of the proposed bill.

The Chinese Canadian National Council, Toronto chapter, urges the government to redraft the bill to sincerely address the concerns of the communities. The above-mentioned issues are only some aspects of these concerns. It cannot be emphasized enough that the issue of racist police violence has reached such a crisis state that it can no longer be ignored by the government and by the police. Our community, together with other visible minority and aboriginal communities, wants to see changes made now. We are running out of patience and time. Police are supposed to serve and protect the communities, and police forces should be made responsible and accountable to the communities that they serve.

I would like to talk a little bit about the case that we are involved with. In November last year there was a 50-year-old Chinese nurse who was just driving down Queen Street during her one-hour dinner break to get dinner somewhere in the Broadview area. She was stopped by two police officers who claimed that she ran a red light. The police officer stopped her and asked for her licence. She had a licence but no insurance or ownership. The police officers took her documents and went back to the cruiser. Because she only had limited time for a dinner break and then had to go back to the hospital for work, she went to the cruiser and asked for her documents back. The police officers took her, dragged her into the car and started beating her, and then charged her with assault.

The case came to us because she went to see a number of lawyers and did not get anywhere. She tried to lay charges

against the police officers three times in front of justices of the peace and was turned down three times. CCNC was involved. We helped her find a lawyer. In the end she was acquitted of the assault charge, but she was also charged with disturbing the peace. It was not properly laid; it was never arraigned. As a result, the crown had to withdraw the charge. So she was acquitted of both charges. Right now, she is trying to file a private action against the police.

If Bill 107 as it stands is going to pass, then the special investigations unit will not be able to deal with such an incident because, first of all, she was not seriously injured. She was blacked out for two seconds and she got bruises, but she did not become paralysed, for example, and the injuries she received were very minor. It does not come under the serious type of injury.

Whether or not the injury caused to the victim of police violence is serious, the fact remains that police are not doing the job and they are harassing citizens. They are employing the power we give to them to assault people who do not listen to them and who do not take orders from them. This is something that has to be addressed. We cannot rely on current or former police officers to deal with these complaints in a fair and expeditious manner. We need an independent community-based civilian body to investigate such incidents.

Any questions?

Mr Philip: Your organization has been very active for a number of years. Indeed, it was only a couple of months ago that I attended the anniversary party at which you and others who had worked so hard over the years were congratulated, and rightly so.

I see here a memo by the Metropolitan Toronto Police dated July 1988. It is to all store employees—this is sent out to employees in Metropolitan Toronto—concerning a number of clothing stores in the downtown area which have been broken into and had thousands of dollars worth of expensive clothing stolen. It goes on to describe the modus operandi and then it says, “The suspects in these entries are usually young blacks.” Without being too pessimistic, I guess my question to you is, do you feel that with all the work that you have done you have made very much progress?

Ms Go: First of all, is that a question relating to the memo?

Mr Philip: When I see a memo like this, then I really wonder if somebody in the police force is really sensitive. There are ways of tipping off store owners that there are problems without necessarily labelling everybody of one particular colour, racial origin, religion or whatever so that everyone like that who goes into a store is suspect. When I see this, I am just appalled that with all the work you have done, and so many other people have done, there is still an awful lot to do.

Ms Go: Oh, yes. I mean, it is obvious, even from the comments made by people like Alan Tonks, that they do believe very sincerely that a disproportionately large number of black people are criminals and so on. There is no doubt that a lot more has to be done, especially with the current police forces because they are the ones with all the powers and the power to use force against people if they choose to. So they should be one of the target groups of our organization as well as many other community organizations who believe in human rights and equality. I admit that although we have done a lot, it is never enough.

Mr Philip: I am sure you realize that in the Police Act regulations, the code of offences, discrimination or prejudice is

not part of any offence. Yet in Great Britain, under Margaret Thatcher in 1984, the police act was amended to make it an offence; racially discriminatory behaviour was made a specific disciplinary offence. Then in their regs they go on to spell out, first of all, what an abuse of authority by a police officer is and then to describe what racially discriminatory behaviour is. This bill is silent on that. I wonder if you feel we should flesh out that discriminatory behaviour for racial reasons should be an offence under the code of offences?

Ms Go: Yes, we do believe that discrimination has to be seen as something which is not acceptable by society, and there is one place to start. Actually, we are thinking of drafting some sort of submission to the government to include in the Criminal Code, to increase the sentencing, for example, for racist killing and racist assault. We have to emphasize the element of racial discrimination and any form of discrimination as aggravating the extent of violence in our society.

I do not want to comment on Margaret Thatcher, but the British government has done a lot, more so than the Canadian government, in terms of community-based policing. Sikhs have been allowed to wear turbans in Britain for years, even when they are doing the policing job. It is only in recent months that we started to work towards that goal.

Mr Philip: And of course here in Ontario, even though the task force recommended that the right to wear the turbans be part of the act, this act is silent of that. There is a regulation that says the Solicitor General may set out a dress code, and hopefully he may spell that out in that regulation, but we have not seen that regulation yet.

0930

Ms Go: I hope this is not the final thing. There should be something more comprehensive coming after this bill, even if it has to be passed, because there are a lot of issues related to policing and race relations that are not being addressed in this bill. Even if we accept it as the first step, this is not an acceptable first step.

Mr Philip: In 1977 and in 1981, the criticism which the New Democrats, and indeed even the Liberals, made of the McMurtry legislation was the very point that you are making, that this bill is deficient; namely, that the investigations are carried out by the police at the earlier stages. At that time, the arguments by myself and by the Liberal justice critic and others were that people in the visible minority community, particularly those who had come from regimes that might be called totalitarian in nature, would be very reluctant, as a result of their experiences, to lay a complaint if they felt that the police were going to be the initial investigators.

From your experience in your community, do you feel that people are very reluctant, under the present Metro police complaints system, to lay a complaint and do you feel that same reluctance will carry over into this new legislation in the light of your comments on the investigatory process?

Ms Go: Yes. First of all, I would have to say that a lot of people do not complain not because they are reluctant; it is because they do not recognize that they have the right to file a complaint against the police. After they find out they have the right, then they have to go through all these hassles, which does not take them anywhere. They feel frustrated and after a while they just stop making complaints.

For example, the current public complaints commission is based on the philosophy that the police force has the first right

to choose. It has the first opportunity to decide whether it wants to go ahead with an investigation and the first opportunity to decide whether it wants to discipline the police officers and so on. It would be years after going through all these appeals and appeal procedures that you would finally get somewhere with your complaint.

It is not just visible minorities; anybody who wants to complain against the police will feel reluctant, because it does not take him anywhere. Visible minorities who come from places or countries where police forces have been in control of everything will feel they are subject to the same regime here in Canada. If they see police violence everywhere, if they see the police just shooting people for speeding and so on, they will feel the same way and they would just carry the same attitude from where they were from to here.

Mr Curling: Ms Go, you do not have to apologize at all about your presentation. Some of the most eloquent and best presentations are done spontaneously, because you are speaking from some kind of personal experience, and at that time I think the committee will get an opportunity to feel the impact of what is happening here.

Just to address the part of the police release or letter that my colleague mentioned, we must be very careful, although it is on a police letterhead, about stating whether or not the police force endorses that kind of action. That was done in 1988. It was brought to the attention of members of the cabinet and the Solicitor General of the day. Communication was made, and it was stated by the police that it was not an endorsement by the police force, that somehow the approval process was not followed.

Why I mention that is important is because I really would like to put a brush off the police force as racist and the police force acting in this manner. They are individuals. As I constantly state, we have a good police force; we have individuals in the police force who are racists. We have a good society; people in the society are racists. How do we deal with this? It is important that organizations like yours establish working relationships in order to make sure we have the best system in place, and we can have that.

You mentioned a couple of times that the bill is inadequate. I do not think the bill itself will solve all the problems. It was not intended to. It will never legislate behaviour, but it will set a pattern in the road in which we can deal with things. So many studies have been done. We can drag our feet and decide that we will come to the perfect solution before we put it down. Even when we get the words and put it in law, in legislative form, it would miss that word and it would miss this. But I think it is a good way in which to go, to have something there. Of course, we can go back to 1977 and to who did not support that and which one did not support this kind of clause or bill, but now we have before us a bill that addresses many of the areas; not all, but I think it is a start.

The question I ask is, would you rather see this bill go through than not have it at all? What alternative would you have: no bill or this bill?

Ms Go: Knowing how efficient the government is, I would rather have something in place right now and try to work from there. It could be 10 years before another bill is introduced. But since we have a public hearing, and I presume the purpose of the public hearing is to know what the public thinks of a bill and to amend the bill in the way that suits the needs of the public and addresses the concerns of the communities, we cannot just say, "Because it is not perfect, that's why we cannot

change it." It still can be changed, because it is not perfect. This is the time to hear what we think about the bill and to try to do your best to amend the bill in the way that will address our concerns.

Mr Curling: This is my last comment, Mr Chairman. Can I then reassure you that that is what public hearings are about? Sometimes our colleagues do not fully understand that. I would at the end, of course, hope—and I would insist that while I am listening to presentations and submissions here that it is taken in consideration—that will be done. As a matter of fact, the Solicitor General himself has put forward some amendments to the bill already and I am sure more will be coming forward because of submissions and hearings. So I want to commend you for your presentation.

Mr Kanter: I would like to continue along some of the lines established by Mr Curling. I was also at the event sponsored by your association. I know Mr Philip and a number of politicians of various parties were there, and so, in fact, were some police officers, so I guess there has been some contact with your association and the police.

I was a little unsure and perhaps I did not quite follow precisely in terms of the impression I had of the concern you raised about harassment and intimidation by police. Do you have any statistics or sense of how often or how many? Is this a few isolated events or is this a widespread situation that occurs very frequently?

Ms Go: First of all, I guess you cannot see a policing issue as just police violence. There are many aspects of policing that we are concerned with. For example, just in talking about high-way traffic accidents, a lot of Chinese Canadians feel they were not given enough opportunity to explain their story because of the language.

Mr Kanter: I am not sure that is limited to members of any particular community.

Ms Go: The particular complaints we get are usually something like this. A Chinese man is involved with a white man, for example, who speaks perfect English, and the police will tend to listen to what the other person says instead of the Chinese person, who may not be able to command the language as well as the other guy. They feel that they have not been given the opportunity to express themselves and the police will not allow them to tell their story. It is just one form of the lack of understanding and lack of sensitivity that the police officers have towards the visible minority communities or people whose first language is not English.

There are a lot of other cases, like shoplifting cases. People complain that they did not get to talk to any interpreters, for example, and they could not explain the stories and the police would just take whatever the security guard said. Because of my involvement with Downtown Legal Services when I was a student at the University of Toronto law school, I heard a lot of these stories. I am also a board member of the Metro Chinese and Southeast Asian Legal Clinic and we get a lot of similar complaints as well. That is one aspect of policing, which is the lack of understanding and the lack of willingness to listen to people who do not speak English.

0940

In terms of police violence and harassment, actually we held a press conference for the case involving the nurse. Within one day we got 20 phone calls from people from the Chinese community and they said, "Oh, yes, I want to tell you about this

case," but we cannot handle all of them. It just shows that if people know they have a chance, that they have the right to complain against the police and they will succeed if they feel their rights have been infringed, then they will come out and say it. It is just a matter of having to let people know that they will be heard in a fair manner and their complaints will be dealt with in a fair manner. Otherwise, people will not come forward.

Mr Kanter: That impression I am getting is that there is perhaps a language problem, a communications problem, an understanding problem, a question of people's legal rights. There is a whole range of problems. I guess what I am trying to understand is, you have made some suggestions about changing the specific nature of the police complaints procedure, but it seems to me that whether or not that change is made, there are a lot of things you would suggest from the police point of view and also from perhaps things that your community group or other community groups or legal clinics might do.

Ms Go: Exactly.

Mr Kanter: Can I just raise one other point? You mentioned the police complaints authority in England, I think, under Mrs Thatcher or whomever. The members of the committee do have a rather complete compendium of about 28 different supervisory committees. It is interesting that the British police complaints authority is appointed, I guess in name by Her Majesty the Queen but I suspect in effect by the Home Secretary, similar to our Solicitor General. They do not have the power to conduct investigations; they supervise police investigations. In effect, they would have less power, for example, than the special investigations unit.

I note, just looking at about 28 different examples of controls, international civilian oversight agencies, that I would think our model is certainly as civilian oriented and as independent as any of the other models. I have just looked through this chart at England, Wales, Hong Kong, Northern Ireland, four examples in Australia and about 20 examples in the United States. Overall, given the fact that there is a very strong civilian component in the investigation, accountability to elected political authority and the power to discipline, I think our act sets out a lot of civilian control and accountability over the police, as much as any of the other models I have been able to find.

Ms Go: I have not had the opportunity and the benefit of reading the list you have in front of you, but even if that were the case, it is like comparing Canada with China; you could be as civilian as China, for all I know, because I do not know what exactly is involved in those countries.

What I am saying is, looking at the problems that are happening in the city especially, and in the rest of the province, we are facing a serious problem of policing and lack of understanding of the issue of race relations of the police officers, and a mounting problem between the police force and the community, especially the visible minority community. That is why we came forward with the suggestion that maybe we should have an independent civilian investigative body. Otherwise, if you leave the issue to be dealt with by police officers and ex-police officers, the visible minority groups or any people who have been victimized by police violence and police harassment will never feel that they will be fairly dealt with.

It is sort of legal jargon: Justice has to be done and be seen to be done. Even if it will be done, it will never be seen that it will be done. Perception is as important as reality. For one, I do not think the reality is such that, after you have this investigative body, then you will have complaints being dealt with fairly.

Even if that were true, people would still keep on thinking that this is not something that is happening.

Mr Kanter: I agree with you that it is a serious problem. I am just suggesting it is a very serious and progressive response to the serious problem that you have outlined, as progressive as any jurisdiction that we have been able to find. The committee researcher went out of her way to look at the most progressive regimes in this regard, not at repressive and non-progressive regimes.

Mr Sterling: I was a member of the cabinet when Mr McMurtry brought in the original police complaints bill in the early 1980s, and it was seen as a new experiment and far-reaching at that time. In fact, Mr McMurtry went to Britain at the request of the British government, and some of its legislation evolved out of Ontario legislation. It is ironic that at that time the Liberal opposition was saying that Mr McMurtry's model did not go far enough. His response at that time was, "This is the forerunner of things to come and perhaps in another 10 years, a decade away, we will be able to go the second step."

Mr Philip: That is right. That is what he said.

Mr Sterling: Now we are hearing from the Liberal government, and what it is putting forward in Bill 107 is nothing more or nothing less than an expansion of the Toronto model to the rest of Ontario. There is very little more within the bill that changes the situation. Do you represent many people outside the Metropolitan Toronto area?

Ms Go: Not me, but the organization itself. I belong to the Toronto chapter, so our jurisdiction is confined to the area.

Mr Sterling: Is there a large problem outside Metropolitan Toronto?

Ms Go: In terms of the Chinese community, I cannot tell you. I am not familiar with that, because we work within the Metro area.

Mr Sterling: One of the problems with these hearings is that we are hearing Metro Toronto complaints and we are legislating the province of Ontario for problems that are occurring within this jurisdiction. In fact, some of the problems that are experienced here are not being experienced in other parts of the province. All the bill really does is deal with the rest of the province, so it is kind of a frustrating process.

Ms Go: But if something is good for Metro because it is fair, because it is just, then it should also be good for the rest of the province as well. They may not have the same problems or the extent of the problem will be less, but still, because it is based on the belief that this is the fair way of dealing with things, then it should be fair for everybody.

Mr Sterling: The rest of Ontario, I submit, would strongly disagree with you.

The Chair: I see the Peterborough crew smiling.

Mr Sterling: But you do not live outside Toronto either.

Ms Go: No. Everyone has his or her own opinion.

The Chair: Thank you very much. We appreciate your brief and your submission, Ms Go. I am sure it will be very useful to the committee members in our deliberations.

COUNTY OF PETERBOROUGH

The Chair: Our next presenters are from the corporation of the county of Peterborough. Please come forward. Please identify yourselves for Hansard. As you know, we usually allow 30 minutes per delegation, including time for questions, so please proceed.

Warden Brick: I am Doris Brick, the warden of Peterborough county, and with me is Carmen Metcalfe, the reeve of Asphodel, who is a member of our county council. We are very pleased to have an opportunity to come here this morning and bring to these public hearings a perspective which is quite different from many of those you will hear from the metropolitan area around Toronto. Our concerns and needs are somewhat different.

We have submitted to you a brief. I do not intend to read it verbatim. I will highlight some of our main concerns and hope that we can have some exchange. We realize that some amendments have been put forward to the House. At the time we were preparing to come here we were not aware of those, and I have just had a very quick look this morning.

0950

We have concerns with Bill 107 and what it says about policing in smaller municipalities in Ontario, in particular those that do not have police forces but may be designated by an order in council. Of course this mainly affects townships and villages which are policed by the OPP at this time.

We are not here to argue with you the case of whether everyone should pay for police services or not, but we believe that if that is the province's intent and every municipality will be required to provide police services, it would be much better to have that clarified in the text of the bill. We would like to outline some of our concerns and hope that this legislative committee will give consideration before the final passage of the bill to some of our concerns.

When we look at some of the principles outlined in the bill, in particular section 1, paragraph 3, "The need for co-operation between the providers of police services and the communities they serve," we wonder if these principles will be served in the bill. There are some areas and wording in the bill that we think fly in the face of that stated principle, as well as the principle "to ensure that police forces are representative of the communities they serve."

We should point out that in the definitions within the act, counties are not defined. You might wonder why we are here today. Our county, along with many others in the province, is undertaking a restructuring study and in the course of that many issues have come up. This particular bill is of great concern to our local municipalities. We have their full support in appearing here today.

At the present time we have 18 municipalities in the county of Peterborough. The village of Lakefield is the only one with its own police force. The village of Norwood and the township of Asphodel have an agreement with the OPP, and the remaining 15 municipalities are sitting there wondering how many of them may face designation.

In this process of restructuring, we have just completed meeting. All our 18 councils and our restructuring committee have reviewed the bill and formulated the response we have here before you today. But it is very interesting that in rural Ontario, meeting with the elected officials, most of them have not heard of Bill 107. For that reason we felt it was important that during this committee hearing process some views from

that part of the province should be brought forward for your committee members' consideration.

One of the sections that concerns us is section 4. Subsection 4(6) says that if a municipality has a population over 5,000, it shall provide police services. That is very clear that it is going to be their responsibility. But subsection 4(7) applies to an area that has been designated. We would respectfully request that a consultation process be established with those municipalities before decisions to designate them are put in place. The present wording leaves the decision process entirely to the Solicitor General. The ability to designate a municipality without consultation is of particular concern to us. We feel that each affected municipality should have the opportunity and the right to be apprised of any consideration with regard to providing policing.

When we look at section 5, paragraph 4, we are wondering, if you are going to be designated, are there ways that you could not just contract with the OPP but engage private security firms as a police force? Could a municipality propose innovative policing ideas for the commission's approval? It seems that more clarity could be inserted into this section.

Section 10 deals with municipal agreements. Subsection 10(5) talks about the funding being put into the consolidated revenue fund, and we would think this should be credited towards the Solicitor General's fund to give credit to the contribution that is made to the provincial ministry from the local governments across Ontario.

With regard to the composition of the Ontario Civilian Commission on Police Services, we note that a quorum would be two members. In most organizations a quorum is generally 50%. Here you could have a commission of anywhere from three to nine members and two would be a quorum. We feel that this proposal flies in the face of good government and that at a minimum it should be 50% of the commission.

Police service boards and the appointments to them: We wish to state very clearly that municipalities are finding it difficult to deal with issues when the province appears to have all the control. Proposing that some boards be as small as three members leaves us wondering if the principle of broader public input is being followed. It seems that when more people serve on a board, a wider public view is bound to be brought to the table for discussion. True, boards can be too large, but the possibility of a small board may not be in the best interests.

This is another case where the province is setting up a service and letting the local municipality be responsible to pay for it. A prime example of this is the establishment of the police services board. If municipalities are to pay for police services, they should have a proportionate amount of say. The municipalities should be allowed to appoint the majority of members since the force is to serve the municipality which is responsible to pay the cost of the policing.

We had commented about the appointment of the chair in section 28. Quickly going through the amendments I noticed that an amendment has been put forward there and we certainly hope that when the bill is passed, the local police services board will be able to appoint its own chair.

On subsection 35(2), dealing with the local police services board, again we feel that a quorum should be 50% on that board.

Section 133, regulations, is the section that causes us the most concern. The Solicitor General is given a free hand at proposing regulations that in effect control every move that a municipal force can do. It allows policing to be changed by regulation and the impact on a force is unknown. Furthermore,

the impact on local governments with regard to costs is unknown.

We oppose the opportunity to establish far-reaching policing implications by regulation. This is government without discussion and debate. Legislation need not even be changed and the Solicitor General can cause significant impact on a local municipality both in costs and in the method that its board will conduct its business.

An issue that we believe should be addressed in the bill deals with contract services. When a municipality is designated, it contracts with the OPP, from what we read here. Will that municipality receive household policing grants? If a municipality contracts with the OPP, to whom are the police responsible: the municipality, a police services board or a commission? There is no indication in this bill, and we think that there should be clarification before the bill is passed.

The police force will be subject to changes in its operation, all by regulation. We do not feel this is right. We oppose the inclusion of so many regulation options in the bill and ask that your committee review the list in its entirety to ensure that the public receives the stated principle: "The need for co-operation between providers of police services and the communities they serve." We would like to thank you for the opportunity to bring our concerns forward and we will respond to questions.

1000

Mr Philip: Thank you for an interesting presentation. We will be following in clause-by-clause some of your detailed questions with the Solicitor General when he is here to answer those questions. One of the concerns that I have with this bill and that you seem to share is that so many of the really important decisions are being made under section 133, which is the regulatory system.

We have here a bill that seems to be a quick response to some tragedies or some difficulties. But the bill was tabled in December 1989, sat there, and was not on the government's list of priorities until we had a recent unfortunate incident. Now they want this to go through before the House recesses.

Does it make some sense to you that at least the regulations—when they are available, and the Solicitor General has not provided them to the committee, let alone to you people—should be sent to municipalities, to police forces, to community groups for public input and that perhaps there should be a review either of the regulations or of the legislation and regulations in a year or two years to make sure they are meeting the needs of people in your community and others?

Warden Brick: I would agree, provided that before the regulations are imposed there is some discussion permitted before they come into effect. That would be preferable to the bill as it is written today. We do recognize that there is a need perhaps for this bill to be put forward, and there are many very important issues that I am sure your committee is hearing of and it needs to be passed. But in regard to the concern with the regulations, if we were to receive some assurance that indeed before regulations were imposed there would be a public comment process, again, I think that would be acceptable.

Mr Philip: One of the suggestions of making the police system more sensitive to local community needs—and I am quite familiar with the Peterborough area and I agree it is different from Metropolitan Toronto—would be that instead of having a centralized police training system, perhaps the college at Aylmer could be a post-graduate sort of centre where people from around the province could come in for professional

development. The real police training could be done the same way that we train nurses, social workers and other people; namely, in the community.

Police officers could be trained at Conestoga College or at Trent University, receive a certificate and then, if the police force so designated, they could be hired. Those people, having gone through a system of education along with other people in the community, would perhaps be more sensitive to community needs. Would that make more sense than the present centralized system of training of police?

Warden Brick: Coming from an area where we do not provide policing or do to a very limited degree, it is difficult to answer. We recognize that there has to be training and there have to be some standards throughout the province but, yes, we would like to see that they would be trained to be sensitive to the community they are going to serve in. If there was a move in that way, I do not think we would object to it.

Mr Philip: I have to speak in the House, so I apologize, but I will be reading the Hansard of the rest of your responses.

The Chair: We look forward to your return.

Mr Philip: I know. You always do.

Mr Sterling: I am, likewise, going to be doing the same as Mr Philip in a few moments.

Mr Philip: It is like a conscience that wakes you up in the middle of the night.

Mr Sterling: I want to tell you that your brief today, in terms of my riding, is more important than any other brief that has been presented to this committee. That is one of my greatest concerns with regard to this bill and the speed with which it is being put through this Legislature.

Mr Smith, who represents Lambton county, I am sure is going to be affected in a lot of ways which have not been drawn to the attention of the public by this piece of legislation. His constituents are going to experience tremendous property tax increases as a result of this legislation, as are four of the townships I represent, which all have more than 10,000 people in them.

We have the OPP providing police services to the township of Osgoode, the township of Rideau, the township of Goulbourn and the township of West Carleton. At the present time, the residents are not paying for the police services through their property taxes. They, of course, pay through their provincial taxes.

This bill by its structure allows two things. First, it allows the Solicitor General to postpone the proclamation of section 4 and the implementation of forcing those four townships in my riding to undertake municipal police forces until after the next election, which I suspect is what they are intending to do.

I certainly will not want to face my residents and say, "Your property taxes are going to be increased because we are going to pass the buck with a provincial program which we have been providing to you," the residents of those townships, "to date, but in the future we are going to force you, through increased property taxes, to pay for another service which heretofore the province has created."

Section 4 also allows the Solicitor General to pick and choose as to which municipalities under 5,000 in population are going to get free police servicing and which ones are not. So it allows not only general rules to exist but also politics to be played with which ridings and which townships are going to have to pay for policing and which ones are not.

This bill, as put forward today, is probably the biggest passing of provincial responsibility in financial terms to rural Ontario that we have seen by a government in the last decade. That has not been recognized by our rural community, nor has our rural community had the opportunity to respond. Quite frankly, I believe we should postpone the passing of this bill until all of rural Ontario and the rest of Ontario have the opportunity to come in and question the Solicitor General face on as to whether the taxpayers in those areas are going to have to pay for police servicing.

What kind of impact will it make on the areas which you represent as warden for some 18 municipalities? What kind of property taxes would people be facing if they are forced to pay for this kind of service?

Warden Brick: As I say, it is so difficult when we do not know the cost of running one, but we have a village in our county that does have a police force. We would anticipate that somewhere in the order of well over \$200 increases on a local tax bill would be minimal if you were required to provide full-time policing services. So you would be looking at 20% and 25% increases in tax bills, which certainly is significant, but when you do not have something, it is very difficult to respond.

I think the point is that in rural Ontario they are not aware of the passage of this bill. They feel they do not provide policing and it is just going through like a sleeper. There are very few who are aware of it, and I think it is so important that maybe even the regulations section of the bill, if it were to be excluded in the passage and deal with it later, because we do know that there are some parts of the bill that need to be dealt with. I think there needs to be more public discussion.

Mr Sterling: Have you heard of any cost-sharing plans submitted by the Solicitor General as to how he is going to pass this burden on to municipalities?

Warden Brick: We do not have any idea at all. I guess in making my next statement we would like to be very clear that we are not here as police bashers. We feel we have been well served by the OPP in our area. But one thing that is really making some of us a little jittery is that in the past few months they have started meeting with the heads of councils on a regular basis in our area.

Carmen has been around for some 30 years in public life in our county and I have been around for 14. This has never happened in the past and it leaves us very uneasy that they are now beginning to inform us of the amount of time being spent in our municipalities. We feel like we are just sitting on the verge of something—the cost—and we do not have any way of finding out. Of course I do not think the local force knows what is coming on. They are just doing what they are being instructed.

Do you wish to speak to this, Carmen?

1010

Reeve Metcalfe: Yes. On that subject, we have what they call a pilot project in Norwood and my township, Asphodel, which is a community of around 3,000 or 4,000 people at the present time. They have an OPP station there. The people think this is great, and we have not been asked to supply much funding for this project, but a little. I always feel that once you get your foot in the door, it is quite easy to increase the cost.

If we are paying 1% this year, we could be paying 4% next year and just work up. I think the people of our area think the project is good. They really have not realized that possibly in the future it will cost their tax dollars. This year it is not going to cost that much so it will not show up.

The other thing I feel in this bill is the quorum thing. I have been in municipal politics, as the warden said, for quite a number of years and I always figured that if you do not have 51% of the vote, you do not get elected. I think that is democracy and I do not like to see the quorum with nine people on a committee and two people being able to solve the problem.

But going back to the local policing, we have been well served in the past by the OPP. I am not saying we will not be well served possibly in the future, but I do feel that some of the cost will be shuffled down to the municipal level.

Mr D. W. Smith: I do appreciate your presentation here today and I think I can likely relate to some of the things you are saying. First of all, under subsection 35(2), it says right there, "A majority of the members of the board constitutes a quorum." So that is mentioned. I know you have some concerns about it, but I think it is mentioned there. To me it would say that a majority is a quorum.

Warden Brick: When we mention that, I think we relate that back to the commission. If it is good in one, it should be the same both ways.

Mr D. W. Smith: I questioned the Solicitor General because Lambton, as you know, now is under restructuring. We have our own bill and that section 4 there had the exception of Muskoka, the exception of Ottawa-Carleton, the exception of Oxford county.

I thought maybe Lambton should be in there as well, but I have not brought that yet because we have some quite large municipalities, or communities I will call them. They might be under a township. Corunna, which is a community of 5,000 or 6,000 people, has no police force, is protected by OPP—not in that township; they have stations outside. But it can happen, I suppose, that the costs could be passed down.

I have heard this for a number of years. I was on the municipal council before 1985 and I have heard it for a number of years. In fact, I even get the impression that the people from the very large communities—and of course we always hammer Toronto; it is the biggest board we can work on—somehow resent the fact that they have to help pay for OPP but they also have to maintain a Metro police force in this case or London city police or whatever city you might be talking about.

I also always felt that growing up in a rural community, we were so calm and quiet we did not really need that much police protection anyway, so I did not think we should have to pay double. Some will argue with me there.

There was another page here I wanted to make a comment on. It is subsection 10(6) on page 9. That is quite lengthy, but I wonder if some of the concerns that you have raised would be answered in that subsection 10(6).

I will not take a lot of time because I know other people like to ask questions around here and if one hogs the floor, the rest do not get their opportunity. I think it is like any piece of legislation; it does not answer all the problems. In fact, I always say that any bylaw, legislation, any act usually affects someone positively and someone negatively. I guess I hope in the long run that this will be more positive than negative.

I know there have to be changes made. I understand, but I can see where you are coming from in these small communities, that if we get a burden shifted on to us again—

Warden Brick: It is going to hurt.

Mr D. W. Smith: You are darned right it is going to hurt. I really appreciate hearing your comments because I think I can relate to them quite well. In fact, we are still going through this

restructuring down in Sarnia-Lambton. I made comment of the fact that when we were going through that bill there were costs there that I did not think people were being told about. I think they are coming to light now and I would hate to be hit with another one from police services on top of all that is going to happen there right now. Yes, we can always go further in a bill than we have gone, but hopefully it will start the process of working out what is most fair for all of us.

Mrs E. J. Smith: As you know, Mr Chairman, I am not usually here. I am subbing briefly this morning. I am not here probably for good reason, because I am tempted to get involved. But howsoever, in response I just wanted to say a couple of things.

Generally there seems to be this impression somewhere out there that this bill was rushed together. I think you have to remember when the first reading was; it was way back when. I want to put on the record how much effort was put into putting together this bill. Neal Jessop of the Police Association of Ontario is here, as I am sure others have been on other occasions. There was a very carefully structured committee, chaired by the deputy minister, that had three police association officers, three chiefs of police and three people from police commissions. They worked long and hard trying to look at all the interests involved in a balanced way. I think it is a great mistake—because everything was held up by the filibustering and so on in the House and then this came forward at this point—to have any notion that it was put together at that time. It was put together over a year and a half of very hard, intensive balancing of needs by those three groups. It is important to remember that.

As for the financial aspect, which you have addressed, I thought it would be very easy to say, “Everybody pays, everything’s easy and would you kindly bring me the information so we can incorporate this into a bill.” In fact, that has to be looked at separately. What is out there now is a hornets’ nest of financing.

Over the last two or three years it has been very clear, if a municipality asks for OPP coverage, how the local police force is very protected and what the municipality has to do. It is worked out in a formula that hopefully is clearly understood. It is interesting to hear Mr Sterling talk, because what was already there is going to take a lot of time to straighten out. It was all done before this formula and does represent what is referred to as almost political patronage. You can hardly figure out why Glengarry is covered one way and the next county is covered another way, and so it goes. God knows how that all got there, but it will have to be straightened out by a long and arduous task that is not in this bill. I just wanted to make those two comments, that it was impossible to incorporate that into this bill.

Reeve Metcalfe: Getting back to this restructuring of the county, and that is the committee to be set up across the province practically in every county, the reference has been made here that the small municipalities have not responded to this bill. I understand that, because they have never had to pay for policing. It has been there. All they had to do was they had a telephone number.

They get the bill in the mail in the small municipalities. The clerks all tell us they are short of staff. Being an elected person, I would say they are not working hard enough, but that is a matter of opinion. They really do not get into a bill. The only way you get into a bill, I think, is at the county level, and this is why I am in favour of restructuring.

But the comments that I have been getting are that the government, on one hand, is saying restructure and make the municipality—it would not come up with any magic figure, but let’s say a population of 5,000 or 6,000 in each municipality. Then out comes the police bill that says if you have over 5,000 you are going to have your own police force. The people—the public and the local elected people—are saying: “Which comes first: the chicken or the egg? Is the government saying restructure so you can pay for your own police force?” As I say, that is the point.

Mr D. W. Smith: The catch-22.

Reeve Metcalfe: The catch-22, as you say. This is a concern.

Mrs E. J. Smith: Part of the catch-22 is that so many of your rural areas are actually suburban areas, so it is a catch-22.

Reeve Metcalfe: Yes.

Warden Brick: It is, but it has been suggested to us that why should a municipality be enlarged if you are going to have these types of services forced upon you. Some are saying to us that this in itself is reason enough not to restructure.

Mrs E. J. Smith: I think that is a very valid point, because the bill on restructuring counties was being worked on at the same time as this was being worked on. They were not addressed simultaneously, so to speak.

The Chair: Thank you very much, Mrs Brick and Mr Metcalfe, for your brief. I am sure you have recognized that it was received with great interest and will be considered by the members of the committee.

1020

NORTH YORK COMMITTEE ON COMMUNITY, RACE AND ETHNIC RELATIONS

The Chair: I do not think our next presenter is in the room at the present time, so I will call the North York Committee on Community, Race and Ethnic Relations. I believe there are three presenters—Dick Grannan, Barry Thomas and Al Mercury. As you are aware, we allot 30 minutes per delegation, and that is intended to include time for questions. If you do have a lengthy brief, we would ask you to summarize and allow some time for questions. Please proceed.

Mr Grannan: As you mentioned, my name is Dick Grannan and I am the chair of the North York Committee on Community, Race and Ethnic Relations. I would like to thank the members of the standing committee for the opportunity to present our concerns to you this morning with respect to Bill 107. We would also like to congratulate the government on moving to initiate many important reforms. We hope it is the beginning of establishing some kind of mutual trust between our communities and the police force.

As you mentioned, with me today are Barry Thomas, who is the executive director of our committee, and Al Mercury, who is the original co-chair of the committee. He is also the chair of our subcommittee on employment equity.

I will just give you a little bit of background on the committee, because I think it is important you understand where we are coming from. In October 1979 Mayor Lastman, who was responding to suggestions by the Ontario Human Rights Commission, established the Mayor’s Committee on Community, Race and Ethnic Relations. I might mention that this was the

first such committee in all of Canada, and it has become a model for many other committees across the country.

In the 1970s we saw significant changes in the racial and ethnic composition of Metropolitan Toronto and in its cities and boroughs. These changes contributed positively to the social, cultural and economic life of North York. At the same time, however, racial and ethnic tension and conflict also began to emerge.

The committee was set up originally in recognition of the critical role that we felt municipal leadership plays, and continues to play, in the development of positive race and ethnic relations. We believe that local government has a direct impact upon the daily lives of the residents because it is very well situated to promote harmonious community race and ethnic relations. So we are pleased to be here today to present some of the committee's views on the proposed legislation, the Police Services Act.

I would like to say that our committee supports the bill in principle. We also support a rapid passing of the bill. There are certain aspects of the bill that we would like to see changed or modified. No doubt many of the presenters who have been here over the last few days have touched on a lot of different points, so we are not going to go into great detail in that sense.

I do want to point out that over the past 10 years the North York committee has been acutely aware of the tensions that have existed between the police and the members of the community. Although on several occasions our committee has been accused of requesting the so-called black statistics, nothing could be further from the truth. However, that particular episode dramatically emphasized for us, and we hope for the larger community, the deteriorating relationship between the police and the community. That publicity, coupled, if you recall, with the shooting of Sophia Cook in North York, further strained the situation. It was the responsibility of our committee to try to provide—and we did provide—arbitration hearings that went on for an extended period of time between various members and groups within the community and the police.

Recently, within the last two weeks, our committee held a public hearing to listen to the dozens of deputations from individual citizens and representatives of various community organizations in an attempt on our part to try to prevent polarization and to discover what actions are necessary to bring about real opportunity and equal treatment for all of our citizens.

These events and the deputations made it abundantly clear to us that our black community especially feels singled out for special treatment by the police. For the past two years as chair of this committee, I have heard from members of the North York community stories that personally brought tears to my eyes. I have a sense of shame for what has happened to many of our citizens in that city and I am deeply moved by those experiences.

We are fully aware of the danger of generalization, but we believe that something is terribly wrong and it must be righted. We think Bill 107 begins the process of changing the situation, and although many of the task force recommendations have been included in initiatives already taken by the office of the Solicitor General, there are further recommendations that should be included, in our opinion, if trust is to be restored to our community.

I would like to call upon Al Mercury to present some of those specific ideas and recommendations that we feel will provide a more solid basis for the partnerships envisioned between the police and the citizens they serve.

Mr Mercury: Some of the concerns regarding law enforcement in our community are going to be briefly addressed by me this morning, but I would like to preface my remarks by saying the community is not saying that it does not want police in our society. Police are a universal institution regardless of what type of government you have in this world. What we are concerned about is the type or kind of policing and the kind of legislation which would stop the kinds of behaviour and practices that are creating tensions and wreaking havoc in our communities.

I speak to you as a member of the African-Canadian community, but I also speak to you as an individual who has been involved in the following areas: I served in the Canadian Armed Forces reserve for almost 10 years and retired with the rank of captain. I am a businessman. I am a former board member of the Metropolitan Toronto Housing Authority. I was, as you heard, the former co-chair of the North York Committee on Community, Race and Ethnic Relations. I am a former board member and vice-president of the Urban Alliance on Race Relations. I was an active member of the executive—as a matter of fact I was executive director—of the National Black Coalition of Canada. I have also served the community at large as district governor of Lions Clubs International. I have served on the National Parole Board as a community board member and I am serving at present on the Ontario Board of Parole as a community board member. It is with this kind of background and experience that I address you.

Today there is anxiety, fear or paranoia among black youth and parents about police behaviour, which they feel is unpredictable at best. It is bad when a black youth drops out of school; it is even worse when that youth does not have job skills and is unemployed; and worse yet if he lives in public housing. Black youth living in public housing feel they are prime targets of police. For example, they tell me if you are stopped by police while driving, in most cases the behaviour and attitude of the officer do not become hostile until he finds on the licence that the youth or person lives in public housing. Once they establish that you live in public housing, the language changes immediately and the kinds of questions asked are extremely different: "Hey, boy, where are you going now? What have you been up to? How much did you pay for this car?" This is unsuitable at best. Obviously it is absurd and annoying that youths swear, because no one can take that kind of nonsense.

1030

Youths who have jobs and live in public housing are constantly suspect because of the automobiles they drive. What do they expect these youths and their parents to do? I have had personal experience where I have been stopped by police, pulled over, and instead of asking for a driver's licence they asked, "Where is your passport?" My response was, "What does that have to do with a driving offence?" Then the officer asked me, "Why don't you go back where you came from?" I said, "That would be very difficult as I was born here." It was only at this stage that he asked for a driver's licence. It is interesting to note that after he and I exchanged some rather heated words, because he insisted on calling me "boy" and I asked him how big did they grow the boys where he came from, that he ceased that type of interrogation. I never did get a ticket.

This police behaviour has got to stop or else we are going to lose all that we have worked for all these years and the respect for each other and the law which we have established for many years. This is a beautiful country with wonderful people, but let

not police behaviour destroy that image. Our police are a reflection of our society. We do not have a racist police force. We do have members on the police force who are racist and practise it, and those people, in my opinion, must be rooted out.

A lot of people have spoken about police training in race relations and other areas. Let me tell you something: Training can never be effective unless it is mandatory as well as made part of the performance appraisal on the basis of which individuals are promoted. Police behaviour—how he or she interacts with the community—should be made part of the criteria for promotion. It seems to me that what some of the officers have learned well and can do better is how to draw and fire a weapon, but not how to communicate with minorities. If their interpersonal communications or cross-cultural communications were good today, we would not be here today making this presentation.

These problems create suspicion among communities about the ability of the police to investigate themselves if they have not been able to communicate with people against whom they are investigating. For this reason, we endorse a call for an independent civilian investigative board into police wrongdoing. We also call for a civilian overview board. We also endorse a call for police to file a report each time they draw their weapons. This will safeguard the lives of unarmed youth and other individuals who are being shot for petty or trivial offences. We feel that by instituting these recommendations police will be forced to use their judgement and wisdom more frequently than they currently do.

Ladies and gentlemen, I want to make it clear that this presentation is being made in good faith and because we love this country and our community. We do not want some police officers to turn this city into a cowboy or gunslinging city, such as some of our neighbours to the south. As Canadians, we cannot tolerate that type of behaviour. To remain silent and not challenge it or speak out would be irresponsible and an abdication of our rights as citizens. If this Bill 107 is going to be passed, and passed in the same spirit as the community wanted it to be, then this bill will represent the expressions and aspirations of men and women who care about the life and future of this society.

Mr Grannan: I would like to call upon Barry now to present some further ideas.

Mr Thomas: Thank you for hearing us. I would like to focus this part of our presentation specifically on clause 41(1)(c) under the duties of a police chief. I want to focus it and broaden the discussion and presentation to examine community-based policing, why it has worked in part and why it has failed to follow the course. Ultimately, I want to propose that the current climate we find ourselves in, specifically the Lawson, Cook and Marlon Neal shootings, is a moment of crisis wherein leadership from the police and leadership from communities need to be intertwined in a partnership to come out with a positive and creative solution for the current climate we find ourselves in. Unfortunately, at the moment, we do not see that happening.

The bottom line is that the leadership we need to see needs to be coming from the chief of police. The problems with that leadership not coming is related to the type of force, the historical development of the force and indeed the corporate culture that prevents the type of leadership we now seek. In other words, we are talking about going through a crisis and having the opportunity to use a system of real community-based policing to forge a partnership to get us out of this crisis or face the

obvious negative consequences of living in a large North American metropolis.

We talk about the police are the people and the people are the police. We see over the 1970s and the early 1980s the initiatives of community-based policing, and we talk about the return of foot patrol, zone policing and mini-stations, and we wonder why it has happened sporadically and fragmentedly in only particular areas of communities. The reason behind that, as I stated earlier, is the corporate structure of the police. The system designed now and based on rapid response policing allows the current system to develop high-tech technologies to attempt to deal with situations in moments of crisis, which takes about 20% of the time of the average policeman and leaves 80% of the time for sitting around and waiting for reaction.

What we need to see now from the police force is a change in the corporate culture that will move from this narrow focus on crime control programs to a broader focus on service to the community. We need to see a movement from emphasis on serious crimes to an emphasis on community problem-solving. We need to see a movement from reactive approaches to reactive and proactive approaches to solutions.

We need to see a change from rapid response to calls for service to variable response depending on need. We need to see the dealing with incidents in a fragmented way change to dealing with broader, community issues. We need to see a change from the remoteness of police officers to the community to a more connectedness with the community and we need to see that in an interactive manner.

We need to see a change from the technology-driven process now engaged in to a change where it is needs driven and technology assisted. We need to see a change from efficient doing things right to effective doing the right things. We need to see a change from the central structure to a decentralized structure. We need to see a change from specialization of roles to generalist and specialist roles.

We need to see a change from standardization and uniformity to flexibility, innovation, and diversity. We need to see a change from autocratic style, command and control to participative style to individual responsibility and discretion. We need to see a change in the operational management of the status quo to strategic leadership change. We need to see a change from focus on short-term procedures to focus on long-term impact of strategies. We need to see a change from the focus of the patrol officer who has a very narrow role of duties to an enhanced patrol officer who has generalist responsibilities. Training emphasis on fitness and defence needs to be changed to a balanced emphasis on defence and community reactions.

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Finally, we need to see a change in terms of performance based on quantity of arrests, tickets and so on to performance based on quality of achievements of community goals.

I would like to submit that the change can only come by leadership within the respective police forces, and the components of that kind of change are as follows, to conclude: from bureaucratic management to strategic management; from administrative management to people management; from maintenance management to change management; from the management of others to the management of self.

Mr Mahoney: I have just one question. Mr Mercury, I was very interested in your presentation, but curious to hear of the follow-up of that confrontation you had with the police officer. I notice that you are currently a member of the complaints board.

Mr Mercury: I am. It did not exist at that time.

Mr Mahoney: It is outrageous the things that the officer said to you, but what did you do about it? Did you file a complaint? Did you get a badge number?

Mr Mercury: There was no complaint mechanism at that time. That was about three and a half or four years ago. The ultimate decision was that he just turned around and walked away, because I told him that if he gave me a ticket I would carry it much further. He just walked away.

Mr Mahoney: So you did not take it to his superiors or get his badge number so that you could file a report.

Mr Mercury: No, I did not, but I had a subsequent run-in with another officer about a month later. Again I was stopped because I had a new automobile and he made some derogatory remark about my racial extraction. I would not tolerate it and I told him that if he cared to repeat it after he was off work, he and I could discuss it at our leisure. He decided he would give me a ticket for, as he put it, squealing my tires, which he did. I took it to his staff superintendent and I never heard any more about the ticket.

Mr Mahoney: That was recently?

Mr Mercury: That was some month and a half after this run-in with another officer.

Mr Mahoney: But the appropriate response for any citizen who is treated that way now obviously would be to file a complaint with the board you serve on.

Mr Mercury: That is true; it would be. I have no difficulty with the board I serve on, but I must tell you that it is a long, tedious process and I know many people who have filed grievances with that board and ultimately dropped them because of the harassment that takes place. When you file the initial complaint with the police, they tend to discourage you filing a complaint. At one time they were laying public mischief charges against anyone who could not conclusively prove the charge, so you had sort of a threatening attitude applied towards people who wanted to make use of the mechanism.

Mr Mahoney: Do they have to pay a fee or anything to file this complaint?

Mr Mercury: No, they do not have to pay a fee, but the fact is that initially one of the ways in which you can file a complaint is to go to a police station. It just seems illogical to me, if you are being harassed or you feel you have been wronged by a police officer, to virtually expect that individual, particularly if he is not familiar with our bureaucracies, to more or less walk right into the lion's den. I think that is rather ludicrous.

Mr Mahoney: A little intimidating perhaps. I served on a youth forum in my own community in Mississauga that dealt with the relationship between police and young people. Many of the types of complaints you are talking about came out, that kids felt that just because of the way they dressed or the way they had their hair, or the double earring or whatever, they were being challenged immediately by the police. There was a very interesting interaction between the kids involved in this youth forum. Do you think it goes beyond the issue of a black or visible minority in relationship to the police and youth problems, and does it go to the extent that they will treat kids like this just because of the way they look?

Mr Mercury: I definitely believe that to be true. I think part of it is the type of environment most police come from. Most policemen come from middle-class homes, whether they be minorities themselves or come from the majority ethnic group. I stay away from the phrase "visible minorities," because that gives rise to the belief that if you are non-visible, then you must be invisible. I do not subscribe to that belief.

Mr Mahoney: Sometimes I would like to be, actually.

Mr Mercury: That would not solve the problem either. The basis of the thing is that anybody who is different, whether it be by cultural habits, dress or appearance from the type of individual the police are trained not to regard with suspicion, which is the type of individual who has a shirt, tie and suit jacket, etc, and then is establishment, anybody who is not dressed in that manner obviously is up to no good. In this day and age, when we have some pretty high-visibility individuals who dress in an individualistic manner, it is very difficult to believe that.

I have two close relatives. One is a nephew who is on the Metro force and I have a brother who is in the entertainment business. He was here working at a club a few years ago and my nephew, who had just joined the Metro force at that time, and a friend of mine were meeting me at the club where he was working. I got to meet them at a rather late time. I was about an hour and a half late. I got tied up in a business transaction.

I had just got in the place and my friend had got there an hour and a half before me. He said: "Al, you know, there is a guy singing up here. He has got to be queer as the birds. He has got long hair and he has got an earring in his ear." I said, "Yes, so what?" He said, "Oh, definitely, he is really strange." After the performance he came down to the table and I said, "I would like you to meet my brother."

He would not believe me because he had known me for several years and he always assumed that anybody in my family had to have the same type of appearance as I did. My brother literally had to show him his ID before he would believe it. That is what happens. We have preconceived perceptions of what an individual is because of the way he dresses, the way he has his hair, the way he presents himself, and that is not necessarily true.

Mr Polsinelli: Mr Thomas, do you have a copy of your presentation for the committee or did I just not receive it? No copy? Then I will have to read it through Hansard. I just have a few quick questions. I was fascinated with your presentation, because it seems to me that what you are saying is that we have to move away from a paramilitary type of policing operation to more of a holistic type of police officer who will not only respond to calls and try to keep the peace in a reactive situation but act more as a social worker, family counsellor, friend of the community. Is that the gist of what you are saying?

1050

Mr Thomas: In short, yes. In long, I am not talking about the police becoming social workers. I am talking about the police more effectively carrying out the task of policing, both from a reactive level and from a proactive or preventive level. In other words, the point I was making was that because of the high-tech development and the overemphasis on managing the system as opposed to conditioning the system of policing to respond to the community needs, we find that we have officers spending rapid response time totalling 20% of their on-time time, and basically taking 80% of their time with bureaucratic

waiting-for-calls type of time. It can be used much, much more effectively.

The reason we do not see that happening in the Toronto force is, I would submit, because we do not see it in the leadership that is being developed at the force. What is happening is that there is an overpreponderance on the militaristic stands that the force is forced into by its conditioning.

I would like to give you an example. Young people joining the police force, irrespective of the community from which they come, generally go in there with the notion, "We want to serve the community." They are from the community, they are of the community and after training they are alienated from the community, and that is the problem.

Mr Polsinelli: I appreciate that what you are saying would be great in an ideal society or an idealistic society. I have had the opportunity on more than one occasion, at least on two occasions, to spend an evening, a full shift with a police officer at 31 Division. I tell you that my experience has been that the officers are reacting. I mean, they are going from call to call to call. I am telling you that I am a civilian sitting in a police cruiser responding to calls with a police officer, and in a few situations I was afraid. I was scared. You are telling me that they are spending 80% of their time waiting for calls. Maybe they were bad evenings or maybe they were good evenings, but the officer was going from call to call to call—get back in the cruiser, another call comes through and he responds to it.

Now if you are talking about moving towards an idealistic society, I say, "Yes, I think we should all be striving towards moving towards an idealistic society," but I think we have to accept the reality of the situation today. You talk about lack of leadership. It seems to me that since we have got Mr McCormack as the police chief in Metro Toronto the outreach towards the visible minorities and the ethnic communities has increased. With the first incidents that we had of a situation occurring, the chief went out. He summoned people from the community who he thought were leaders of the community to speak to them. Was that inappropriate?

I can tell you about my relationship with the officers in 31 Division. There is a police-citizens committee that seems to be an effective committee, which is increasing the dialogue. I do not understand what you are talking about, quite frankly, when you talk about a lack of leadership, when you talk about a police officer doing community-based policing. What should these people be doing that they are not doing now?

Mr Grannan: I think the point we are trying to make is moving away from a police force whose main thrust is the maintenance of law and protection of civil rights, to a new society that we are moving into in the 1990s where there is the whole concept of partnership and working together towards building a stronger community.

The way we see it now is that this situation does not exist. The thrust of the police force seems to be primarily the protection of our civil rights, which we agree must be there in a democratic system. But what we also see changing—I think it was pointed out in the presentation made by the Solicitor General himself to this committee—is that the police force is also moving into the area of service to the community. That is the new type, and all governments and all businesses that are thinking today are talking about touching the roots, dealing with people on a partnership basis.

The current system does not promote partnership. For example, when we brought the police together in the city of North York over some of the incidents that happened there in 31

Division, they decided who the representatives were from the community. They picked out the representatives from the community. They did not respect the community's choice of who they wanted to represent them there.

Mr Polsinelli: Hold on, hold on—

The Chair: Mr Polsinelli, I am simply saying you just have a very little amount of time left because there are other members who want to ask questions.

Mr Polsinelli: I appreciate that, but when you talk about police choosing who the representatives are from the community, how do you establish what the community choice is? Do you have an election to see who is going to be sitting on the police-citizens committee, quite frankly?

Mr Grannan: In our particular community there are many organizations that have established themselves to deal with a lot of these problems, and in those organizations they do have elected people who have been chosen by those people they represent to be the spokespersons for that committee. I know there are spokesmen out there who are self-appointed.

Mr Polsinelli: There are many of those.

Mr Grannan: All right, but we are talking about the legitimate representatives from the community, who the community has selected as its leaders.

Mr Polsinelli: Just a final comment, Mr Chairman. The legitimate representatives of the community are the people who are elected through the democratic process. The leaders of organizations represent those organizations.

Mr Philip: My experience with those organizations is that they also represent the community, and very well.

Mr Mercury, I have a question to you because of your position on the Metro police complaints commission. I have before me a memo from the Metropolitan Toronto Police dated July 1988 to store employees telling them to watch out for certain types of thieves. It says, "The suspects in these entries are usually young blacks."

Now, I recognize that the police may rationalize that there is some kind of police reason for this kind of thing, but I am sure you would agree that this is a way of encouraging prejudice, of stereotyping people among the employees, that they become overly suspicious of anyone who is black who enters their store when they get this kind of memo. Under the present legislation, and indeed under the new bill, would there be any way of your directly handling this kind of complaint, and what action would likely take place with this kind of complaint?

Mr Mercury: First of all, I am not sure what action that particular communication would generate. I was made aware of that piece of literature when it was first circulated to downtown stores because one of the store owners brought it to our committee's attention. As a member of the police complaints board, I can make no comment, because I am not here representing the police complaints board. I sit here as a member of the North York Committee on Community, Race and Ethnic Relations.

Mr Philip: I was just asking you from a point of view from your own knowledge rather than your speaking for the board, but let me put it this way. If I were to go to the Ontario Human Rights Commission and say, "Look, there is a pattern of problems in Rexdale concerning certain things," the human rights commissioner would, using her discretion, be able to do

an investigation on her own initiative. If I went to the Ombudsman and said, "There is a systemic problem in such-and-such a ministry," the Ombudsman would be able to initiate an investigation on her own initiative. Indeed, Dan Hill did a number of those.

Do you see any reason why in this act there should not be the same powers of this ombudsman to say, "There is a problem out here and I, as the chief commissioner in charge of police investigations, am going to do a systemic study into what is going on," since this kind of power is not given to him under this act that is presently being presented by the Liberal government?

Mr Mercury: Are you promulgating the fact that he should have the opportunity to be proactive rather than reactive?

Mr Philip: Yes.

Mr Mercury: It is an interesting thought.

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Mr Philip: Dan Hill argued that the most important thing in being an Ombudsman was to be active and to deal with the systemic problems rather than individual complaints. Individual complaints are important. They also give you an idea of where the pattern of complaints are. But the most important thing—and indeed I think if you talk to any of the ombudsmen throughout the world—and I have talked to a good many of them—they would agree that the most important thing is to see the patterns and be able to investigate the patterns and deal with the major problems rather than simply stick your finger in the dike. I really wonder why this act is so absent in this type of ombudsman.

I apologize; because I had to speak in the Legislature on Bob Rae's employment equity bill I was not here for your full presentation. Mr Mercury talked about the incident that he had in which racial comments were made to him when he was stopped for allegedly speeding. Notwithstanding what you feel was a trumped-up case of the squealing wheels, but just on the racial remarks, what would likely happen if that were taken under the present Metropolitan Toronto Police Force Complaints Act, even if you had a witness? What would likely be the result in terms of some kind of action in just the racial slur?

Mr Mercury: I do not know, because you have to prove it, number one. Two, you also have to have the time to follow it through, and this is where the majority of complaints fall down. The sheer time frame, the slowness of reaction and the whole bureaucracy involved in responding to complaints is such that it discourages the individual unless the damage done is so extensive that he is prepared to devote that time.

Quite frankly, most people simply do not have that time to be involved, because it takes sometimes years to follow the process through to the point where you gain satisfaction, and sometimes because there are monetary constraints as well as time constraints, you just let it drop. But what happens then is, that creates yet another individual who is dissatisfied with the type of justice that has supposedly been meted out to him or her.

Mr Philip: Under the disciplinary code presently in the act, racially discriminatory behaviour is not a specific disciplinary offence. Under the British code, it is. Would it make sense to put racially discriminatory behaviour under the disciplinary code of the present Police Act?

Mr Mercury: I feel it would.

Mr Thomas: If I may just respond to the question about using, for example, the public complaints system, just recently we had an incident take place in one of the Metro housing complexes or communities in the North York area and, upon investigation, found that there was indeed legitimacy for a complaint being laid on a racial basis, and we advocated that to the people involved. They went down to the public complaints commission and, on their way to the public complaints commission, leaving the project that particular day, they were stopped by officers who were involved in the altercation who said essentially: "We know where you are going. This is a long process; it is going to take two or three years. We have enough time to deal with you before it goes to court."

The Chair: Just for the information of committee members, we were late, as you know, assembling a quorum this morning and we have had several very interesting briefs this morning, so I have exercised my discretion in allowing more time for questions. Consequently, we are going to be here over the better part of the lunch hour, so I have imposed upon the clerk to bring in sandwiches so that we can proceed and hear all the delegations. As you know, there has been a very large demand for individuals and groups to come before the committee, so we will be sitting a bit into the lunch hour, and I would prevail upon the members to stay and participate.

We do have another couple of questioners for this particular group, first Mr Ruprecht and then Mr Cooke.

Mr Ruprecht: Before I came down here today—I am not a member of this committee, as you probably have gathered by now—I was listening to Alvin Curling on employment equity in the House, and he has to a certain degree sensitized all of us, certainly in this caucus, to minority relations. But the question I really want to ask you is, when you mentioned police training, or rather retraining, would you outline for us how you see this training or retraining should take place? Should it take place in a community college setting or should it take place, as it is under present conditions, in the police college, or what other method of training or retraining do you envision?

Mr Mercury: I would like to see the police trained outside the police college setting, not only because they would get a broader exposure but it would also give them an opportunity to interface on an interpersonal basis with the community which they are serving. I think our problem with the police is that they tend to become totally isolated from the community. Because of the nature of the work they do, it tends to become a them-and-us sort of situation. They feel very much that they are besieged, and hence quite often you get a situation where there are three points of view: a specific community, a community as a whole and then there is the police. I do not believe that should be. I think they should reflect the community they serve and be part of that community.

I was very interested to listen to some of the comments from one of your colleagues in regard to the police of 31 Division. This January I spent five consecutive Sundays speaking with every officer in 31, 32 and 33 divisions at the behest of the staff superintendent of North York. I tried to sensitize them on these Sunday mornings to how the members of the African community regarded the police force. Most of them, to me, appeared to be very aware of the sensitivities, but the comments of some officers as well as non-commissioned officers were crude, crass and showed a total lack of understanding or the inclination to want to understand. I must tell you quite frankly I

think, in training, our police have a long way to go. But it should not be done in isolation from the rest of the community.

Mr Grannan: Just to add a comment to that, one of the things that did concern us, and we did not bring it forward today, is that a person must be at least 18 years of age and have four years of high school. We are talking about a tremendously complicated society. We are talking about horrendous changes that are taking place in our society today, especially in this particular Metropolitan Toronto area, and to put people into the police force who are still teenagers to deal with this complicated society seems to me to be asking for trouble. If you are looking at restructuring the training, along with what Al said, I think there should be a serious look at the age at which people come into this organization.

They may come in at that age, but up-front it with some kind of responsibilities over the years doing services in the community so that they can keep those roots in the community before they actually begin to perform their duties as officers. I personally find that someone 18 or 19 years of age who is going to come out and be the upholder of law and make the decisions that have to be made today is not of an adequate age or does not have an adequate education to do that.

Mr Ruprecht: My final question is for Mr Mercury. We take you to be eminently reasonable, and I think the situation in Toronto as it stands right now should not and must not be inflamed really under any condition because of the present tensions that exist in this place. I would think that you too share this concern with me, that we must talk as much as possible to persons who are not on the fringes but in the centre, to maintain a sense of stability so that the situation does not get out of hand.

In the second-last paragraph of your presentation you say, "We do not want some police officer to turn this city into a cowboy or gun-slinging city." That is a pretty tough statement and I want to ask you whether you really think that. You may want to reconsider this in light of the reasonableness of your position and the fact that we try to come to some understanding between the major parties at dispute.

1110

Mr Mercury: No, I do not think it calls for reconsideration. What I am trying to do is raise a potential scenario that none of us would like to see come about. I think part of the problem in Metropolitan Toronto right now is that we tend to shoot the messenger before we listen to the message. Quite frankly, in my opinion some of the activists in my community have done this city a service for which they are being damned with extremely faint praise.

They have made us aware of some of the shortcomings in our society and, to me, they have sounded an alarm that unless we who are what you call fairly reasonable do something to stem those problems and address those problems, they could be exacerbated to a level that none of us would like to see.

I was born in Toronto and I love this city a great deal, but I do not think we should permit ourselves to become victims of falling in love with slogans like "Our Cops Are Tops." They may be good, but they are not omnipotent. They are not beyond making error, nor are our citizenry without flaw. By the same token, we have some problems that must be addressed. Not only must they be addressed by communities, but they also have to be addressed, however reluctantly, by politicians. I think we all have to step back and take a hard look at the abyss that we could find ourselves in if we do not deal with those problems in a meaningful manner, not in a cosmetic way.

Mr D. R. Cooke: The presentation is extremely valuable because it emphasizes some things that I hope we are already beginning to know, and to some extent it is axiomatic. Perhaps I could tell you that it is axiomatic in my experience as well, but there are a number of police officers who have a sense of bigotry towards children or people who dress differently. For what it is worth, I could introduce you to black police officers who hold that view towards white children too, or black children. That does not seem to matter except that it is part of the problem in dealing with police officers, I suppose.

I also understand that the document Mr Philip has been tendering did not go through the normal process of the Metro Toronto Police. It was a particular situation that was an embarrassment to the police because the letterhead was used. I take it that it was an anomaly.

I wondered about your tire-squealing incident. Was there any evidence suggested by anybody that you squealed your tires?

Mr Mercury: No, there was no evidence of that.

Mr D. R. Cooke: Was there evidence that it was trumped up? Did he indicate that to you?

Mr Mercury: It was trumped up, because I asked him what he was going to charge me with. First of all, he said he thought I was speeding. I looked him dead in the eye and said, "I think you're telling a story," because quite frankly I was going 25 miles an hour. It was 7:25 in the morning, I had just dropped my wife off downtown at work and was on my way back up home. I had a new car and I was enjoying it.

Mr Curling: You were cruising, eh?

Mr Mercury: I do not know about cruising. There is not too much cruising at that hour of the morning.

Mr D. R. Cooke: I realize that you get worn down in these things and I have never known a citizen's complaint that was addressed satisfactorily in my experience with a number of them. But in this particular case you are indicating, I believe, that this officer committed a criminal offence in trumping up a charge. Have you any interest in pursuing that at this stage if you had some help?

Mr Mercury: Not at all because, as I said, at that time, I was serving on the North York committee on race relations.

Mr D. R. Cooke: At that time?

Mr Mercury: Yes, and the staff superintendent that I gave the ticket to was a member of that committee. I called him and I told him the circumstances and he asked me to bring it up to him and I gave it to him and I never heard anything further. As far as I was concerned, I did not have to pay a ticket and I do not believe in looking a gift horse in the mouth.

Mr D. R. Cooke: Altogether, justice was really perverted, though, was it not?

Mr Mercury: I think it was perverted, but you must remember at the time I was running three companies of my own and I had to leave town. I was just glad to get it off, that is all.

The Chair: Gentlemen, I want to thank you very much for your brief and your responses to the questions. I am sure that your submission will be very useful to committee members when we enter upon our deliberations. So thank you once again.

Just by way of clarification, we have a number of other presenters this morning before we break and I just want to

review. First of all, we are going to be hearing from Albert Smith, thereafter from the Board of Police Commissioners from Listowel, from the League of Human Rights of B'nai Brith Canada and from the Black Action Defence Committee.

ALBERT SMITH

The Chair: The next presenter will be Albert Smith. As you are aware by now, Mr Smith, we have 30 minutes which includes time for questions, so please proceed.

Mr Smith: I am grateful to have the opportunity to speak with your committee this morning, finally. I have provided the clerk with a copy of my brief. I apologize for its brevity. I did not expect to be speaking on such short notice. I have also left the clerk a tape here which is from the emergency task force inquiry last year.

Regulations: A recurrent theme often seen in media reports today and heard in this room is concerned with the use of force by police. It is also my concern, not only force as applied by police across Ontario, but also as demonstrated by the tactical response units in the province.

With respect to these activities, however, one does not see a higher level than that demonstrated by the Toronto tactical unit. One has only to look at the sad litany of events that has taken place across Ontario in recent years to realize that there is much wrong with their activities. Bernard Bastien, Thor Carlson and others, including a police officer, all shot to death by tactical response units. There are many issues relevant to the above. I have tried to obtain the results of the police tactical units inquiry, but I have been unable to do so.

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My expectation was that the results of this inquiry would have been central to your deliberations here today. With respect to call-out procedure in use today, the Metro Police emergency task force is unique in that it is the only unit of 15 across the province which permits the constable on patrol to activate a tactical unit response. A five-year summary of these call-outs is seen on page 46. As you can see, the four main categories are included here, including hostage incidents and barricaded or dangerous persons calls.

Given the record of tactical unit shootings across Ontario, the Metro ETF is to be commended for its record of apparently not having fired a shot at a suspect during the past five years, throughout which some 1,200 calls were answered. It appears that during the 13 years of its existence most, if not all, of the 75 persons who were killed or wounded by Metro police were victims of non-ETF police personnel.

All of which begs the question, why was the Metro Toronto emergency task force not in attendance during what was reported initially by the media in 1988 as a hostage situation involving one Lester Donaldson? In the event that the Metro ETF had probably responded that day, it appears that the probability that Mr Donaldson would have been killed would have been very slim indeed.

Further, why was Metro Police ETF response not activated during the Albert Johnson and Alan Boyarski incidents, both of which can be categorized as high-risk arrests and both of which resulted in the death of the suspect? It is interesting to note that in the incidents involving Donaldson and Johnson, the police described the suspects as being armed, in one case with a paring knife while the suspect was eating an apple and in the other with a lawn edger.

Now I realize that Sergeant Buttons, in his evidence entered at the inquiry and on my tape given to you today, states that a knife-wielding person can kill at 20 feet, but I expect you could assume that about any person holding a lawn edger, a kitchen chair and many other objects for that matter. Is the use of deadly force warranted at every case where a suspect threatens with "a weapon"?

Relevant also is the issue of discretionary authority given to the constable on patrol to initiate an ETF response. As mentioned by a deputant early on in these hearings but in a different context, the greater the number of discretionary opportunities, the greater the potential for improper response or abuse of authority.

In the above-mentioned incidents, and I am trying to phrase my words in an acceptable manner here, given that all I have been told by the events surrounding these incidents has been done in an informal manner and what I heard here is not sworn testimony, the question still arises in my mind as to whether, for whatever reason, a police constable could choose not to call out the ETF, knowing full well what might be the probable outcome in situations such as those described above.

I remember hearing the story about Donaldson at the time and hearing that there were four constables in the room with a man who was crippled sitting on a bed, and suddenly he is dead. I think that circumstances in such case are not to arouse the curiosity of anyone. It is only recently that I have come to realize that perhaps with respect to the role of the ETF.

In any event, following from the question, are investigations initiated or disciplinary measures taken for a police officer who does not call out the Metro Police ETF as prescribed in procedure call 66, which I understand to be a loose guideline in any event? Is any investigation done in that situation, such as happened perhaps with Mr Donaldson?

Policy: I have listened with interest regarding who controls the police force, and I must admit that I still do not have the answer. However, I would like to direct your attention to a comment made by the previously mentioned witness; that is, the member of the emergency task force who testified at the inquiry last year.

When a commissioner at that inquiry asked Sergeant Buttons if the MP-5 submachine guns used by the unit were capable of automatic fire and, further, were ever fired in the automatic mode, the witness replied that yes, the guns could be fired in the automatic mode but that, "It is the unit's policy, not the force's, never to fire on automatic." Perhaps someone could ascertain for me who sets policies for the Metropolitan Toronto Police Force, particularly policies that apply to operational aspects of the ETF.

Board composition: Further to the issue of provincial versus municipal membership composition of the proposed police services board as it applies to control of the force, I must admit that it makes me somewhat uneasy to read reports in the local dailies regarding comments made by municipally appointed members of the Metropolitan Toronto Board of Police Commissioners.

In one case, a commissioner voting against a motion to convey sympathy to Marlon Neal, a black youth recently shot by a Metro constable, is reputed to have said: "It may happen again...and if it happens it is regrettable, but it happens. That's what policing is all about. That's what safety and security in our municipality is all about."

I presume the commissioner meant to assure us all that the community is now safe and secure from all black youths who are in the habit of running speed traps in Toronto. Such insight

and highly developed sense of duty will no doubt earn Commissioner Shea a correspondingly appropriate career a year from this November. In this regard, section 49 of Bill 107 should, through regulation, consider the provision of safeguards designed to negate any organized attempts by members of the police force to influence positively or negatively the results of an election for public office.

In the same vein, a different commissioner on the Metro Toronto board of commissioners, in support of the fleeing felon rule, made the statement that, "There is a saying among police which states that they would rather be judged by 12 than carried by 6." This raises the issue of impartiality with respect to the proposed civilian complaints board and special investigative unit, along with an ingenuous solution premised on Mr Gardner's quote above.

Given the natural tendencies towards upward mobility and self-preservation exhibited by most individuals, and I have heard this theme repeated many times throughout this week, with regard to impartiality on the part of the crown attorney, I suspect there may be a crown attorney somewhere who could be accused of avoiding the politically expedient aspects of decision-making with respect to the laying of charges, but it is not very likely, I believe. To all citizens, therefore, thus the grand jury system, in light of the above, although not in use in Canada today, might well be used in the complaints procedures contemplated.

Twelve citizens who sit in judgement are to decide whether prosecutors may have sufficient grounds to charge individuals. Such juries do not hear any defence but merely judge the merits of the prosecutor's evidence. What better way to change Mr Gardner's perception of natural justice than to ensure that every gun and shooting complaint against the police be judged by 12?

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As well, perhaps the perceived inequities regarding the composition of the police services board could be remedied through the establishment of an equal number of members from all jurisdictions. The total number might be increased slightly to offset the probability of a tie vote. Perhaps applicants from the Ontario Human Rights Commission and the Ontario Ombudsman's office, along with others, should be considered for membership. In the event of a tie vote, adjudication might be given to the civilian Ontario Civilian Commission on Police Services, with right of appeal to the cabinet, all in the interests of encouraging fair and impartial decision-making at the municipal level.

Service: The aim of Bill 107 appears to be an attempt to shift the emphasis from enforcement considerations towards the service aspects of policing in Ontario. The choice of the terms "Municipal Police Services Boards" and "Ontario Civilian Commission on Police Services" are indicators of this philosophy. However, I have seen no mention of change with respect to the use of the word "force" in the naming of police units across Ontario.

"Force" is defined in the Oxford English Dictionary as "A body of armed men; an army," while "service" is defined as "A branch of public employment or a body of public servants concerned with some particular kind of work or the supply of some particular need."

Would not the name Metropolitan Police Service or Metropolitan Toronto Police Service or Metropolitan Toronto Emergency Service Unit rather than Emergency Response Unit better indicate to citizens the new direction intended by Bill 107 than the titles now in existence?

Perhaps at the same time that it considers changing its name, the emergency task force could also consider modifying its unit crest. I note that the crest has a symbol representing Guy Fawkes, which might be construed as unlawful given the provisions of section 49 of the proposed act. That was intended to be in a humorous vein.

Use of arms: Keeping in mind the definitions seen above regarding the term "force," perhaps consideration should be given to the carrying of arms and the application of armed force only when needed, ie, call-out of highly trained armed response units or the issuance of the number and types of arms as defined by regulations and circumstances.

At present, however, and in its present role, it appears that the strength of the Metropolitan Toronto ETF is far in excess of municipal requirements. Its establishment, which is in excess of 100 and growing rapidly, is comprised of six eight-man gun teams, each with a commander, complemented by two staff sergeants, a divisional inspector, a bomb disposal unit, an emergency response unit and associated support staff.

As well, both in terms of quantity of arms and equipment allocated and hours allotted for training, it far exceeds the training, equipment and time-off-task standards of the rank-and-file police constable on patrol, particularly when compared to other tactical units in Ontario, most of which are formed on a part-time, as-needed basis.

Much thought should be directed to what constitutes a reasonable mandate for these units and the ways they will be utilized. In this regard, at the back in the various appendices is a large body of knowledge about the training, operation and mandate of various task force units across Ontario.

I assume this issue will be addressed during the drafting of province-wide service standards regulations under paragraph 133(1)1 and decided during budgetary deliberations by the municipal council or on referral by the Ontario Civilian Commission on Police Services, which can decide, I understand, on municipal policing standards that are in excess of the provincial standard.

If an enlarged role were to be given to tactical units in Ontario as envisaged within the de-arming scenario that I mentioned previously, one would also assume that supportive changes would have to be made in the federal Criminal Code relating to the prohibition of specific classes of firearms, as well as restrictions regarding the carrying, storing and use of all guns. In this particular regard, whether or not the changes with respect to police carrying arms were made, I still feel this is a relevant issue.

In fact, I read the Globe and Mail this morning—I did not recognize it, but I read it—and in there is a story regarding a report made by the police commissioner on the escalating use of guns in Toronto. In this respect, if you listen to the tape I have given you, Sergeant Buttons of the ETF makes an interesting observation about what they can expect in terms of opposing force if they attempt to break into the thousands of crack houses that are scattered across Metropolitan Toronto today. These individuals have everything from submachine guns to rocket launchers to grenades, apparently.

Why should the decision-makers in Canada, including your honourable committee, wait until the arming of its citizenry and until its crime rates reach the levels seen today in the United States before taking action? Currently in the United States, as a result of out-of-control crime and, I feel, too lax enforcement of gun control, among many other reasons which hopefully do not exist in Canada today at this point, a crime bill is before Congress. The bill seeks to prohibit various types of assault

weapons. As well, unfortunately, as a result of the crime situation in the US, where capital punishment is becoming more and more common, it seeks to increase the range of crimes punishable by death.

How ironic that yesterday the ETF was conducting operations near Yonge and Wellesley, within gunshot range of this committee room, at a location known as Nick's Sports Shop where everything from an AK-47 to an elephant gun can be purchased. Perhaps this is the reason why, although it is not listed on the ETF equipment inventory, they also have an elephant gun. I have given much thought as to why the ETF would have an elephant gun, but perhaps it is to bring down the rogue rabbits that are running around Toronto or something like that.

I also refer you to a recent vignette by Stuart McLean of CBC's *Morningside* as to the ease with which such weapons can be purchased, firearm approval certificates notwithstanding. As an interesting aside, I did read this morning that the individual whom the ETF captured at this gun shop in fact had a valid firearm acquisition certificate.

Search: One of the activities carried out by the Metropolitan Toronto emergency task force is the methodical and detailed clearance of a premises subsequent to the removal of a suspect. Such stealth searches appear to be a routine matter and form part of the unit's operational guidelines.

Given that such actions occur each time the unit is called out, and given that the number of relevant calls appears to be inordinately high when compared to other units, I undertook to obtain the relevant authorities governing searches. Please find attached as appendix C an Ontario Police College basic tactical orientation course curriculum guide pertaining to the use of force, entry and search.

When I inquired as to gaining access to the associated teaching materials, which I assume are located with the truckload delivered to the committee by the Ontario Police College, I was informed by the clerk that such materials are available to the members only and that I should phone the college. I did not have time to do this, so I am respectfully requesting that during your deliberations on the relevant training standards and regulations you inquire as to the legality, circumstances, current practice, operational guidelines and any other relevant information that would clarify when and how a lawful search is to be conducted during tactical unit operations.

1140

Range of submissions made to the committee: A large number of citizens, organizations, corporations and associations have made representation to your committee. However, it appears that few have come forward that represent crucial and influential segments within our municipal and provincial infrastructure with respect to escalating crime rates. By this I mean community and social service agencies, boards of education, economic and planning development departments, ministries of Housing, Municipal Affairs, Employment and Immigration and so on.

Various ministers—we hear them quite frequently in Toronto—chairmen, mayors and appointees have all noised about their supposedly self-evident truisms and proclamations that growth in the Toronto area is the only option available; we can expect another three million residents in the greater Toronto area within the next decade or so; we can expect to spend another \$15 billion on municipal infrastructure; everyone should expect the exquisite pleasure of two hours courtesy of GO rail every working day; we should hold our noses and swal-

low the drinking water and hold on with both hands if we venture near the lake; the icing on the cake should take the form of the Olympic Games and/or Expo 2000.

I see that my report is already out of date, however. There is a slight advance.

That would have made an interesting deputation. What police services will be required in the event of the games? We know that Expo is not coming here now. Will this be the opportunity for municipal politicians to triple the size of the emergency task force? After all, 900 security details have already been completed for the purpose of escorting El-Al crews to and from Pearson International, and this during peacetime conditions. Wait till their friends come visiting. An interesting point is made on page 47 of appendix A, which is that ETF escort personnel would likely be the first targets of any terrorist attempt, and further, that the ETF is not equipped for antiterrorist operations. How will the games affect police service standards in Ontario?

Meanwhile, the number of homeless escalates; crack houses proliferate; food banks cannot deal with the large number of clientele; the middle class cannot afford to purchase reasonable homes in Toronto any more; jobs are disappearing in the thousands as manufacturing concerns flee southward; communities throughout Ontario where a reasonable quality of life still exists are sucked dry of their economic and industrial bases by the exponential growth occurring in Metro today. Yes, indeed, let us crowd another two or three million in. It should do wonders for the crime rate in Metro.

Where are these deputants who should have been making submissions here during the last two weeks on these issues? Were they invited to attend? Were they instructed not to attend? Why has the issue of escalating crime in the Metro area not been addressed within the above-mentioned context?

Bill 107 addresses policing in Ontario. Policing standards are a function of crime rates. Crime rates are a function of poverty and the quality of life. Is there some unrevealed central dogma or knowledge that the decision-makers practise or are aware of that I am not? Why is this bill not being considered in relation to all these other social parameters that influence crime and its growth?

Public input regarding the drafting of regulations: I am uncertain as to the procedure to be followed during the drafting and approval of the regulations pertaining to Bill 107 once proclaimed, but my request to the honourable committee today is that provision be made for deputants who have appeared before it on this matter to comment and submit material regarding these regulations prior to their final approval.

I also believe that the report from the Solicitor General's inquiry into Ontario police tactical units should come before this committee for comment and hopefully public deputation prior to the final approval of the relevant regulations. There are many other aspects regarding the role, regulation and operation of the Metro emergency task force that I wish to comment upon.

Once again, I thank the honourable committee for providing me the opportunity to speak this morning.

The Chair: You have actually used up your full 30 minutes, but we will entertain a couple of very brief questions from any of the committee members who have them.

Mr Philip: You, like so many other groups, have commented on the fact that the major decisions are going to be made by regulations and that you have not had an opportunity,

nor have we, to see the regulations and therefore it is important that those regulations be viewed publicly and commented on.

You mention, why are many of the people who are out there who should be concerned about this bill not making presentations? Of course, the fact is that in this province, despite promises to the contrary by this government, public servants can in fact be fired or disciplined if they were to comment as individuals on their individual personal experiences. There are a lot of people out there who I am sure, because their civil rights have been taken away, cannot, as social workers, as youth workers and so forth, come and comment.

I would like to ask you, though, one question on an area that nobody else has dealt with, and that is the tactical unit, basically as a result of your appendix which you have included. I just want to read one paragraph and then ask you to comment.

"Having no tactical unit to respond to dangerous situations may result in a response which is safer to the police officer but not to hostages or members of the public."

Then you go on and there is various documentation that suggests that the training seems to be inconsistent across the province, that some police forces may be well trained and others do not have a well-trained tactical unit. Am I correct in saying that you feel that this is contributing to unnecessary deaths in this province? Is that your position?

Mr Smith: My position is that the answer to that question would be obtained by having the report from the tactical unit inquiry here in front of the committee, with the information and the recommendations.

Mr Philip: Your personal opinion is?

Mr Smith: My personal opinion is unformed at the moment.

Mr D. R. Cooke: This presentation was excellent and very entertaining. I have a question for Mr Philip, though. I would like to know what evidence he has for the accusation he made that we are firing and disciplining civil servants who speak out.

Mr Philip: Any civil servant in this province may not comment on a political issue without facing discipline.

Mr D. R. Cooke: Can you give us some examples of civil servants who have been fired or disciplined?

Mr Philip: It is in the Public Service Act. Just read it.

Mr D. R. Cooke: Give us an example.

Mr Philip: It is in the Public Service Act.

The Chair: I call members to order. We are asking questions of the presenter.

Mr Philip: Where have you been for the last few years?

Mr Kanter: We heard the human rights commissioner make criticisms of this bill, in fact.

Mr Philip: The human rights commissioner is not a public servant. The human rights commissioner is appointed by order in council. The human rights commission has as its mandate the obligation—

The Chair: Mr Cooke has the floor.

Mr Philip: I am amazed that government members are so ill informed.

Mr D. R. Cooke: I still have not heard an example and I think it is a rather crude slur.

Mr Smith has done an excellent job, and I am glad you provided us with the task force report too, because it should be helpful.

The Chair: Thank you for your presentation and your brief. I am sure it will be useful to the committee when we embark upon our deliberations.

Mr Smith: My only wish is that you act on it.

1150

BOARD OF POLICE COMMISSIONERS TOWN OF LISTOWEL

The Chair: Our next presenter will be from the Board of Police Commissioners for Listowel. David Kilberg and Bert Johnson. As you are aware by now, we try to restrict the time to 30 minutes per delegation, so if you could try to leave some time for questions, we would appreciate it. Please proceed.

Mr Kilberg: My name is David Kilberg. I am chairman of the police commission in Listowel. I would like to introduce His Worship Mayor Bert Johnson, who accompanied me here. As all politicians, he brought to my attention that there was one nametag turned over and he was kind of curious to know what the name says on the turned-over tag. Which one is it? Thank you. Are you satisfied now?

Mayor Johnson: I am.

Mr Kilberg: All right. Perhaps the presentation that I am to bring to this committee is somewhat different from some other presentations, looking over the agenda here for today. Maybe you might find this a little more refreshing, because it is going to be different.

Of course, the major reason is we are in a small community of just over 5,000 population and we certainly do not have all the problems that Metropolitan Toronto or larger cities have. We appreciate that.

However, I would like to also bring to the attention of this committee that, although we are a small community, we can proudly say we have had a police force in our community since 1863. Two years ago we proudly celebrated our 125th anniversary.

I can also state that, although we are a small community, this small community saw fit in 1947 to formulate a board of police commissioners. Under the present act they could have gone on with a committee of council.

We in our community always believed in police protection and we always paid whatever was necessary to give our citizens the best police protection that money could buy for them.

It is my intention to somehow impress on this committee that there are other needs outside of Metro in police matters. This is why I made reference to perhaps being a little refreshing. We appreciate the complexities of the situation existing in Metro, with all the problems that exist. We have always supported a change in the old Police Act. But we believe very strongly that since—I believe I am right—67% of all police forces in Ontario consist of smaller forces, anywhere between one and 19 police officers, according to statistics, therefore I maintain that the majority of police forces, however small they may be, deal with police matters outside of Metro.

We have supported the new act and we have looked forward in particular that the new act will bring some equality and, of course, justice; and for the very nature of this committee dealing with administration of justice, it is very fitting that justice should be forthcoming in our new act.

The first point is the justice that all citizens in Ontario should pay for police protection. The committee has in front of it some information, being one document that consists of 12 1/2 pages, that deals with municipalities receiving OPP service without charge. These are all statistics from 1988. To compare this with only about three and a half pages of municipalities that do pay, my main purpose here is to insist that there should be some justice under the new act, so that it should not be discriminatory as it may sound. In fact, the statistics show that 604 municipalities are receiving free police protection and it seems that of some 800 municipalities 200 are paying. Now this kind of inequality should be and must be addressed under the new act.

Just to elaborate a bit on it, on some comparable municipalities over and above the statistics in front of the members, I tried, for instance, to match up some municipalities—and I will not go through them all—towns with population over 1,000. For instance, Blind River, 4,336, is not paying; Belle River, 3,764, is paying the OPP. Bracebridge—and I do not want to single out any one of them, but only as a comparison—9,968 people, is getting a freebie; and Blenheim, 4,336 people, is paying.

Mr Kanter: Must be due to their former representative.

Mr Kilberg: Yes, honourable member, whatever might be the reason, I think it should stop. The old act did not somehow provide for it, and I am looking to this committee to make some changes under the new act, at least recommend some changes.

If I may just use a couple more: Dunnville, 11,323 people, is not yet paying; Deep River—which I just took at random—41,066, is paying for police protection. Another good one: Gravenhurst, 8,624, is not paying; and Espanola, with 5,378, is paying. I will go with two more: Haldimand, 18,211 people, is not paying; Hanover, 6,327 people, is paying. Huntsville, 12,320 people, is not paying; Hawkesbury, 9,400 people, is paying.

I will stop there, because I hope I have given enough evidence that there is injustice, and if there is injustice, I come in front of the very people who are supposed to be dealing with justice and I am pleading with you to see to it that there should be justice under the new act. Everyone must pay his way today and policing should not be any exception.

1200

It is a matter of fact that the new Police Act has been a long time in the making. I just happen to have been around for the last 19 years in police matters and I have seen all the years it took to prepare this act. Finally it is coming to reality, but what has happened is—and I say this with all due respect—one shooting in Metro and it has been speeded up in high gear so that the Police Act should be passed very quickly. I suggest to this committee that one incident should not influence speedy action and perhaps overlook some of the other important things that may not necessarily apply to Metro but do apply to the rest of us.

We have some points in our submission that I wish to bring to the attention of this committee.

The new act deals with the appointment of the chair. Under the new act the chair is supposed to be appointed by the Lieutenant Governor in Council. We object to this. It is to be found in subsection 28(1), dealing with the chair, "The Lieutenant Governor in Council shall designate a member of each board to be its Chair." We strenuously object to this method for the following reasons:

1. It is not practical to make 123 appointments annually in Ontario. If there are not meant to be annual appointments for chairpersons, if there is to be a permanent chairperson, something like there is in Metro, it certainly will not work in the rest of Ontario.

2. It is not democratic to remove the board's right to elect its chair in a democratic way. Under the new Police Services Act, there is no question about it, that the authority of administration is strengthened, which we support. We as police commissioners wish to have this responsibility. We are not afraid of carrying this responsibility, but if we are to carry this responsibility, we must have the right to elect our own chairperson.

3. Furthermore, we state that it is possible, through this method, to allow politics to enter into these selections, and we say politics have no place in policing.

4. We further state it is possible that the Lieutenant Governor's designate may not meet with the agreement of the rest of the board members, and this could harm the relationship with the board.

We say without any hesitation that this should be completely deleted from the act. Since the responsibility is vested with the board, the board members should choose their chairperson.

We also respectfully submit, to be found in subsection 44(1) dealing with the probationary period, that the old act called for an 18-month probationary period. The new Police Services Act deals now with a one-year, 12-month period. This shortens the 12 months, but we go even further than that. We say that a one-year period is not sufficient for the probationary officer. If I may add, it requires a probationary officer to first assist another officer in order for that particular officer to gain the experience of the community and so on. By the time he goes and gets the proper training, to police college and so on, 12 months is not enough. We go further than that since this is a new act.

We are quite aware that under the old act, even though it was 18 months, it was always considered that a police officer, once he goes through a probationary period and changes his position or may go to a different police force in a different municipality, does not have to go through another probationary period. In our submission, we very sincerely state that since this is a new act, we feel it should provide that a probationary period shall apply every time a police officer changes his or her place of employment.

The reason for this is that it should not be assumed that an officer's successful passing of a probationary period at the age of, let's say, 20—earlier a speaker mentioned the age of 18, which makes it even worse—it does not mean he or she will be successful at the age of 30 or 40. People do change, and we believe that perhaps an officer taking on a new position 10, 20 or 30 years later, should have a probationary period and may not function as well as he or she did on the old job.

We are very sincere on this point. Changing the position keeps the person in the same position of responsibility, but people do change with age and chances are that changing to policing in a different municipality could also change the very structure of policing of that particular municipality by that particular police officer. So we are submitting to this committee that (a) the probationary period should not be shortened, that at least it should be kept at the 18 months, and (b) it should be added that every time a police officer changes his place of employment a probationary period shall apply.

We further submit, to be found in subsection 47(1) which deals with accommodation of a disabled police officer's needs, we recommend that special consideration be given to the fact

that small municipal forces cannot accommodate mentally or physically disabled police officers because (1) small forces cannot afford a financial drain and (2) one physically disabled officer could in effect account for 30%, and in some cases even more, of the whole police budget.

1210

This may be possible in larger centres because there is always some location within the force where employment could be found for such a disabled police officer. We appeal, from a small town point of view, that we do not have this luxury and we do not have any other place where we can put this police officer to carry out his or her duties.

We further submit to this committee that reference is made in subsection 9 (9), which states that the municipalities shall pay the amount to the Treasurer of Ontario. That deals with the fact that under the new act, when special assistance is granted to municipalities by the OPP, payment should be made.

In our own community—and I know this applies to many other communities the same way—under the old act the province was obliged to assist in special circumstances and if a municipal police force was in need of OPP assistance, this was provided free of charge. Now we submit that charging for this assistance under the new Police Services Act will harm the relationship between the two forces. It is a known fact that the policing responsibilities are actually provincial responsibilities. Therefore, when OPP assistance is required in special investigations—and we are dealing with smaller processes in particular.

In our own case in Listowel, for instance, we have the two forces that are just next door to each other and there is a very harmonious relationship between the two forces. The courts are provided by the municipality. Jail cells are owned by the municipality, and if the OPP requires to use them for its own prisoners, it uses them. It is never a matter of trying to say, "Who is doing what and how much?" but we suggest, with all respect, that once money enters the picture between the two forces, this type of relationship will be hard.

This is basically our submission on the points we are mostly concerned with.

The Chair: We have about five or six minutes for questions.

Mr Philip: On the probationary period, has it been your experience that some new police officers have passed the probation period before getting full training?

Mr Kilberg: Not in our municipality.

Mr Philip: Are there other small municipalities where that has happened?

Mr Kilberg: I cannot speak for other municipalities.

Mr Philip: When I say probationary period, I mean the proposed probationary period. If the act is passed with the proposal of shortening the probationary period, will you have instances of officers who will in fact become full-time officers without having had the training?

Mr Kilberg: Perhaps I may answer it in this way: Maybe the officer will receive the training, but that will certainly cut short the experience for the police force, if that officer is eligible to stay or not. It will be right under the wire or perhaps it will not be possible to get full enough experience to know if we can call it finished with the probationary period.

Mr Philip: So you are saying there would not be enough opportunity to observe him—or her, as the case may be.

Mr Kilberg: There will not be enough opportunity.

Mr Philip: On your suggestion concerning the probationary period coming in with each new position, would it not be normal, if you are promoting someone, that you would have that person act in that position and then have an opportunity to observe that person for a period of time before changing the acting to the actual, or is there something in your collective agreement that does not allow you to do that?

Mr Kilberg: The committee can check this out. It is my understanding that it has been ruled through the courts that the police officer only has to go through a probationary period once. We may engage a police officer, a newer police officer, a well-trained police officer under a different classification, but then we will upgrade him. But certainly there is no probationary period where we can say in 12 months or 18 months, whatever the case may be, "You do not suit our needs." We cannot say this.

Mr Philip: But if he does not suit your needs, you can always move him back to constable or to his former position, can you not?

Mr Kilberg: But we are still stuck with him. In degrading a police officer, we can be taken to task.

Mr Philip: So the problem only comes then when you hire a police officer, for example somebody at sergeant level from another police force, find out that he is inadequate as a sergeant for your police force and you are stuck with him because there is no probationary period. Is that what you are saying?

Mr Kilberg: That is right. If we hire him for that type of position, the answer is yes.

Mr D. R. Cooke: I wonder if you have received the tabling of amendments that the Solicitor General has given us just this week. I think some of your concerns are addressed in some of those amendments.

Mr Kilberg: I did not.

Mr D. R. Cooke: Perhaps we could make that available to the witness.

Mr Kilberg: It certainly would be appreciated. I hope that some have been corrected and maybe my time was only to meet these good-looking people here.

1220

Mr D. R. Cooke: I was trying to follow it as you were giving your submission. I am not sure they were all addressed in the way you would like, but I think some of them were.

On section 31 you have indicated, and I can understand and appreciate it, that if you have three-man police force it is impossible to have, say, a disabled person on purpose on your police force. I think what we are asking for is an employment equity plan that would make it clear that you would in no way discriminate against a disabled person and that if a disabled person were available, you would be able to deal with his application in such a way that he would be given equal access to the job of someone else, and that this plan would be up front in any of your personnel activity. Is that not satisfactory?

Mr Kilberg: If I may reply to this point, and I hope I am not misunderstood, we certainly would not like and we have no

intention to discriminate against one of our own in cases like this. To prove this point, we do have full short- and long-term disability under an insurance policy, and this is fine. If it needs to be more on this type of protection given under certain insurance policies, this is also fine for the future.

But to completely take over the full responsibility in making payments for who knows how long a period of time, what I am suggesting again is that we are in no financial position to do this because a police officer could not be accommodated under a small force's position jobs. I am staying with what I have said and I am only clarifying that we are certainly not discriminating against a person on our force who may be disabled, but we simply could not accommodate such a person under any circumstance unless we can buy another insurance policy.

I hope that gave the answer.

The Chair: Thank you very much.

Mr Kilberg: If I may, I would like to just make a few final comments.

The Chair: Make them very brief. We are over our time.

Mr Kilberg: Just to highlight them, we are not saying the new Police Services Act is all negative. We see very good points there. We are saying that we are hopeful it would make it mandatory that under the new act everyone is going to pay for policing, and we are here actually to plead with this committee that in dealing with justice, it must be built in—justice in treating all citizens equal. We must all pay for fire protection and everyone should pay for police protection.

We would also like to stress again that the act should not be geared in high speed for any one particular reason, but rather given full consideration that we may have to live with it for the next 40 years.

What we are suggesting is that we understand the province does not have unlimited finances. Therefore, if the province would ascertain that all citizens pay for police protection and not get a handout from the province, the same province may have more money to give us, the ones who are already saddled with this expense, to alleviate some of the hardships on the municipalities that are already now paying for it and that with new legislation may have to pay more.

With this, I wish to thank you for listening. I say on behalf of the mayor as well, thank you for this opportunity.

The Chair: Thank you very much for your brief and your presentation and for responding to our questions.

Mr Philip: While the next group is gathering, maybe for the sake of Mr Cooke and Mr Kanter I can give them the reference to the Public Service Act which they said did not exist, that prevents public servants from appearing and giving views on this, namely, section 10, section 12 and possibly section 14.

If Mr Cooke wants an example, then perhaps he might like to have—

The Chair: Order. You are out of order.

LEAGUE FOR HUMAN RIGHTS OF B'NAI BRITH CANADA

The Chair: Our next presenters are from the League for Human Rights of B'nai Brith Canada. Please identify your delegation. As you know, you have 30 minutes, which hopeful-

ly includes time for questions, so if you have a lengthy brief you can summarize a little bit. Please proceed.

Dr Mock: I am Dr Karen Mock, the national director of the League for Human Rights of B'nai Brith Canada. I bring regrets from Mark Sandler, who is the national chairman, and from Jerry Rose and Simon Adler who are the regional co-chairmen of the League for Human Rights. I would like to introduce Lorne Shipman, who is the Ontario regional director of the League for Human Rights of B'nai Brith. He has worked closely with police over the last few years on behalf of the league and is consulted frequently for his expertise on right-wing hate groups and racially motivated crimes.

The League for Human Rights of B'nai Brith Canada is a national volunteer organization that is dedicated to combating racism and bigotry. The objectives of the League for Human Rights include human rights for all Canadians, improved community relations and the elimination of racial discrimination and anti-Semitism. The league accomplishes these goals through educational programming, community activity and the provision of legal legislative action. The work of the League for Human Rights is carried out provincially by regional cabinets, and we are presenting this brief on behalf of the Ontario regional cabinet and are pleased to have the opportunity to do so.

I would like to say up front that the League for Human Rights has enjoyed a very positive relationship with police forces throughout Ontario and across Canada. We have found the many forces with which we have worked to be helpful and co-operative and have been particularly assisted by the new units created by several forces to work specifically with ethnocultural and minority communities. We have always encouraged our rather large community constituency to work co-operatively with the police in their local communities, particularly in the struggle to combat racial discrimination and acts of vandalism and harassment that are racially motivated.

The league has published a document on security measures entitled Guidelines for Community Action. This brochure was developed in consultation with, and endorsed by, the Metropolitan Toronto Police and continues to serve as a model for Jewish institutions across the country. A generic version is being developed for use by other minority and aggrieved communities.

The league is also working closely with the various police forces in the wake of the recent increase in cemetery desecrations and increased proliferation of hate propaganda across the country. We have a great deal of respect and appreciation for the efforts of the police in all of these areas. There is no question that in many ways we can still boast some of the best policing services in the world.

However, there are trends that are causing us and several other communities grave concern and I know that this committee is quite aware of those trends. The League for Human Rights is dismayed at the increase in racism and racial incidents in general that have been occurring across the country. Since 1982 the league has been compiling reported incidents of anti-Semitism, and the figures for 1989 revealed a 57% increase on the heels of a 100% increase the year before.

Various polls and surveys corroborate that there is an increase in negative attitudes towards minority groups, prompted by the changing demographics in Canadian society and fanned by the negative stereotypes and sensationalizing of race-related incidents in the media. It is essential in today's multicultural-multiracial Canada that police forces be properly prepared to deliver and be seen to deliver fair and equitable service to all

members of our society. Recent events have revealed that this simply is not the case.

1230

In a resolution passed by the central Ontario region at its May meeting, and you have that attached as the last page of your brief—

The Chair: Dr Mock, may I please interrupt for one minute just to remind you that if you want to have some questions and responses afterwards, just keep an eye on the clock. There are a number of pages left in your brief. Could you summarize some of it?

Dr Mock: Our brief is actually the first three pages and you have appendices that you can refer to, in the interests of keeping brief.

The Chair: Oh, that is great.

Dr Mock: In the resolution passed by the central Ontario region at its May meeting, and you have that attached, the League for Human Rights central region cabinet called upon the government of Ontario to pass the proposed amendments to the Police Act expeditiously, to implement immediately the recommendations of the Race Relations and Policing Task Force and to emphasize the absolute unacceptability of the use of police firearms except as a last resort to prevent loss of life or injury.

We commend the Ministry of the Solicitor General for responding to several recommendations in the task force on race relations and policing and responding to the input from so many communities. The League for Human Rights was pleased to see its own recommendations reflected in the final report, and we have appended that brief for you so that we do not have to be repetitious in the interests of time.

We wish to focus our present remarks, however, on the following specific areas, not on all the areas in the amendments to the Police Act, but on the specific areas of independent civilian review and investigation, employment practices, training and retraining, and police-community relations.

I will turn the microphone over to Lorne Shipman, Ontario regional director of the league, to summarize our issues.

Mr Shipman: You will see in greater detail some of the items I am going to discuss listed later on in our submission that we made to the Race Relations and Policing Task Force. However, as Karen mentioned, there are four items that we would like to highlight.

We would like to reiterate and support the calls from other groups for a form of independent civilian investigation because, as stated here, confidence is shaken when there is any perception of police investigating police. The first investigation should not be conducted by police before being investigated by the public complaints commissioner.

Many people, as is our experience with other communities, do not file complaints, knowing that police are involved in the initial investigation. Similarly, since the perception of fairness is important and the avoiding of all potential conflicts or even perception of conflict is essential, truly independent investigation should not be within the Solicitor General's ministry, which is the same ministry that employs and oversees the police forces themselves. The League for Human Rights supports the task force recommendation for a civilian investigative body to review and administer complaints completely independently from the police or policing services.

Employment practices: The League for Human Rights endorses the recommendation for the implementation of employ-

ment equity programs in police forces throughout the province. These programs must be compulsory, with realistic goals and timetables and a monitoring mechanism in place to ensure compliance. Equity programs must also include police boards and commissions.

Employment equity training must also be a part of an ongoing program for managing and valuing diversity in the workforce so that equity programs are properly implemented and do not lead to hostile climates within the forces.

The League for Human Rights supports the recommendation on training in the task force report. Effective race relations training must be a part of every recruit's training program, but must also be provided on a mandatory basis to officers at every level of the system on an ongoing basis. The most important group to reach, and in sufficient time, are the police chiefs, senior administrators, commissioners and others who are responsible for the corporate culture of policing.

Training courses must be provided by professionals with a sound knowledge base, experience and expertise. Outside expertise is often best used for such courses, particularly with senior managers, since the training involves challenging and often threatening notions. The trainer is best perceived as not having a vested interest.

I think part of the reason we divided it as such between Karen and me is what I am going to be mentioning next.

An effective training-of-trainers program must also be implemented. The League for Human Rights has several training modules, and they are listed in the appendix afterwards, that can be useful for police training. Since that time, since Dr Karen Mock has been added to our staff, we have an individual who has extensive experience in intercultural and race relations training, including for police forces. We would like to say that we, the league, and especially Dr Karen Mock, can be a valuable community resource in this regard.

I will now turn it back for conclusion to Dr Mock.

Dr Mock: We would also stress and endorse, however, other briefs that have insisted upon the involvement of many minority communities, and leadership and expertise in those communities as part of the training.

Every effort must be made by police forces across Ontario to cement harmonious police-community relations, not by denying there is a problem or relying on incomplete or skewed statistics, but by open and honest dialogue and partnerships. Such dialogues form the basis of the League for Human Rights intercultural liaison program that includes such ongoing activities as the black-Jewish dialogue, programs with the Sikh and Chinese communities and several other intercommunity initiatives.

One such initiative is our involvement in the local crisis response network, Toronto Cares, which is a vehicle for minority and aggrieved communities to work effectively together when they need each others' support. The League for Human Rights unity pin that I notice several members of the committee are wearing was born out of our challenge to the anti-Sikh and general racist paraphernalia that was proliferating in the west.

Now is the time for police forces to take a leadership role in promoting diversity and unity or, as our pin says, "l'unité dans la diversité." Neither by burying the head in the sand in a "no problem here" syndrome nor by blaming the victim, as we so often hear and see in the newspapers and hear when microphones end up being put in front of people's mouths, will harmonious relations ever be achieved, but rather by acknowledging that there is indeed a problem and by working hard to

turn the cause of that problem and accompanying perceptions around.

We stress perceptions because—and I guess I have to wear the hat of a psychologist here—there are realities that suggest there is a problem, but even if, as some would like to claim, it is only a perception, and we do not endorse that position, it is the perception of unfairness and inequity that we have to recognize as a reality as well.

The League for Human Rights pledges its support to the police forces and to the government of Ontario in their efforts to provide fair and equitable service to all Ontarians. We also pledge our support to other minority communities to work together to achieve our vision of a multicultural society, which will never be realized until racism and all forms of discrimination are eliminated.

We also would like to offer, in addition to our services in training, possibly because of our experience in this field over the last two decades, our role as well as the role of other colleagues in perhaps offering some mediation kinds of services so that we can forge those community-police partnerships and dialogues that will be so important and continue to be important in addressing these important matters that face Ontarians today.

1240

The Chair: We have about 10 minutes for questions. First, Mr Philip.

Mr Philip: As I mentioned in the House earlier in the debate on Bob Rae's affirmative action bill, I think you need to be commended on all of your programs, but particularly on the program concerning these pins because when I and a number of other people were getting so frustrated at the bigotry and the kinds of pins that were coming out, particularly the anti-Sikh, antiturban pins, it came as a refreshing air, if you want, when that happened then to some of us who were getting a little discouraged. Howard Moscoe told me that, if I said that, I would probably get a pin for my wife and for my staff, but do not let me influence you. I will pay for them.

I want to ask a question about the independence. This is the issue that I think has been the major complaint of the original Metropolitan Toronto Police Force complaints bill and is the complaint with this bill now. You say that many people do not file complaints, knowing that police are involved in the initial investigation. I cannot get a feel as to what "many" means, and I gathered, from asking questions yesterday, that "many" does not mean just members who come from totalitarian countries, does not mean just people who are members of visible minorities, but who often are also people who are what we would call fairly middle-class, upwardly mobile people who are powerful in other ways but are still fearful of going under the present Metro police complaints procedure. Is that a reasonable assumption, from your point of view of dealing with people in your organization, many of whom would be professionals?

Dr Mock: I would say it is a reasonable assumption, this notion of, "You should not mix in" or "You should not speak up." I think what police forces need to accept is that they really are an instrument of our society that is backed by power. We often hear police say, "We are visible minorities too because we become vulnerable targets and objects of stereotyping." Yes, that is the case, and when one sees a uniform, he may stereotype. On the other hand, police are an instrument of power in our society, and people may fear and do fear the misuse of that power.

In our organization, I am pleased to say, I do not think people would hesitate to speak up if there was a complaint. We have learned over the years how to do that effectively. On the other hand, when there is a group that is known to be harassed or to experience the consequences of having spoken up, there is a tremendous fear and anxiety in the community, and when they believe that police will be conducting the investigation, there is the perception that there may be negative consequences on themselves and their community. I really do therefore believe that the investigation must be independent.

Mr Philip: On the same independence theme, Alan Borovoy and Dr Dan Hill gave an excellent brief, which you may have had an opportunity to read. Two ideas, in particular, stood out in that. One is that they are calling for an independent audit function which is not built into this legislation. The other is to give the police complaints commissioner the right to initiate an investigation on his or her own initiative, which of course is the right of the human rights commissioner, the Ombudsman of Ontario or indeed any other Ombudsman that I have seen in reading the legislation in different jurisdictions.

Do you feel that those two safeguards should be built into this legislation?

Dr Mock: I would like to reiterate that Lorne and I are here speaking on behalf of our board, and what you see before you are notions that have been endorsed by the board.

If I may speak as an individual, and of ideas that we have discussed although not necessarily formally endorsed and passed at the board level, I think this kind of ability to do independent audits and review and launch complaints is in fact an aspect of independent civilian review and would increase the confidence of the public in our policing services.

Mr Kanter: I know that Dr Mock and your organization have done a lot of work in this area, both in the Jewish community and in the larger community. I want to focus also on the area that Mr Philip referred to about the kind of investigation. You are probably aware that there is a special investigations unit where the director and investigators are not currently serving police officers and that the police complaints commissioner can conduct his own independent investigation after a 30-day period. I guess it is that 30-day period, the initial investigation period, that you have expressed a lot of concern about.

You also state in your brief that your group has worked co-operatively with the police. I am just trying to get some sense here. You say that confidence is shaken; I guess you are referring to the confidence of minority groups or individuals when there is a perception of police investigating police. On the other hand, we have heard from the Police Association of Ontario that it is uneasy about the bill going as far as it does. They feel it may not have application to the rest of Ontario. They are concerned about its application.

I apologize for the long preamble. My question is, is this not a joint undertaking? Are we not trying to reduce polarization, a very difficult area here? Do we not need the co-operation, however reluctant and uneasy, of both the police and the minority groups here? Can we not best achieve that by having a mix or a hybrid, by having some police involvement in the investigation, with very tough and severe civilian oversight review? Is it not hopeful, though, in the totality of things, to have police buy in to the model that we design rather than to have the police totally excluded as outsiders and perhaps refusing to co-operate?

Dr Mock: If the implementation and training were handled effectively, I would hope one would ensure that there was a buy-in, that we are not talking about police against community or community against police.

I know that the Ministry of the Solicitor General commissioned a training video called *It's a Different Street*. I thought that calling it *It's a Two-Way Street* might reflect the kind of partnerships that we really are talking about. I certainly would hope that in any kind of complaint procedure, the police forces themselves would insist on a police investigation as well. I can only think of other systems in which I may be involved where they are lay-led or community-led and, independently, the community can give an evaluation but, at the same time, the hierarchy to which you report also can have an investigation.

It reminds me of even the way our ministries are set up. We have our politicians who will do their own independent reviewing, evaluating and monitoring and within the actual corporate structure of the civil service there will still be proper procedures and so on. I would certainly hope that there would be important dialogue and partnerships forged but, at the same time, neither can compromise the independent evaluation and review of the other.

1250

Mrs Marland: Dr Mock, is it a PhD in psychology that you have?

Dr Mock: Yes, that is right.

Mrs Marland: I was interested when you were using the expression of fear in regard to power. I am not a psychologist, so you will be far more able to deal with my question. What is the difference between when we are talking about little children who fear the repercussions of either misbehaving in the classroom—not so much today, mind you—and people in authority? From when children are very young, they have to develop a respect for positions of authority because it is necessary. Is that correct?

If you do not develop a respect for someone who has authority—whether the word is “respect” or “fear,” and I would think that they can interchange—at what point is the fear of that power there, because there has to be some power to have control over a situation?

Dr Mock: I promise I will not go into a lengthy lecture on psychology.

At the risk of going into a psychological analysis, the most effective use of authority is one that engenders respect and an understanding of the logical consequences of illegal or inappropriate behaviour. Fear does not engender that kind of allegiance to law and order, but rather fear of punishment or arbitrary doling out of negative consequences usually leads to just repression. At another time, it will surface.

There is a huge difference between someone's recognizing that a teacher or a parent or a police officer is after one's best interest to serve and protect and the doling out of arbitrary consequences based on some stereotypes or perhaps inappropriate fear or the need to have that authority in power because that is the only basis of the relationship. It is huge difference when we raise children to know that they can go to a police officer because they are friends and they will ensure that they are treated fairly versus what is happening, unfortunately, in our society today, where there are some children who are being raised in a way that they cannot trust because the consequences are being dished out unfairly.

The Chair: Thank you, Dr Mock.

Mrs Marland: Excuse me, I was not finished. Are we having equal time per caucus?

The Chair: Actually, in the last couple of presentations we have had equal time, and we have been holding to the time line because we are running into House time now. I apologize that we have to do that.

Mrs Marland: No, that is fine.

Mr D. R. Cooke: There is an appendix to this presentation dealing with police colleges. We seem to have stumbled upon some really good expertise in psychology. I think it would be very valuable to the committee if we heard from Mr Curling, who has a question on that area.

Mr Curling: If the honourable members would allow me.

The Chair: I cannot permit Mr Curling to proceed after having told Mrs Marland that she cannot. If there is unanimous consent that Mr Curling or Mrs Marland can ask a question, then that is fine. Otherwise, I have to be evenhanded.

Mrs Marland: That is fine. I will consent, looking forward to the reciprocal consideration.

Mr Curling: Definitely, and I know how co-operative the members are. It is just that within the presentation I noticed that you went on at length about the training. I just want to ask this very quickly, because they have allowed me this short time.

Most of the police training is done in police colleges. As you know, nurses and pilots are now trained in community colleges. As a matter of fact, the professions have improved since that. Do you think this kind of training of police officers could be done in community college rather than having their own police college or military school? What is your feeling on the training being done there?

Dr Mock: I think some very interesting partnerships could be forged. At the present time police colleges have training facilities that in many areas cannot be matched by the existing community colleges and their structure. Dare I go into the issue of funding and programs in community colleges at the present time?

Mr Curling: Do not worry about that. We will find the money.

Dr Mock: On the other hand, in the area of intercultural communication, race relations, employment equity and areas that require a fundamental understanding of many disciplines—psychology, sociology, anthropology, not to mention those areas as fields in and of themselves now with a tremendous body of knowledge—I do not think the existing police college structure can handle that as well as perhaps other areas might. So I would certainly encourage that there be some partnerships forged so that the calibre of training of police, to prepare for this very complicated society that we are now in, is enhanced.

Mr Curling: I am not talking about the physical building. You use the term “injecting” into the individuals. I like the term. In that environment of the community college there are all types of people there, real people, accountants and computer engineers. In a police college it is almost like a sterile atmosphere. I have talked one or two times at the police college and I know that sterile environment there. We can take the facilities, of course, or even use the police college, but you did not seem to address, I think, the question itself of moving that classroom

inside a community college. Do you think that would be worth while?

Dr Mock: If it succeeds in bringing police closer to the community, then it would be worth while. I would suggest that in our multicultural society, we need to work even to change the culture of the ways those mainstream organizations work. If there is a commitment to bring that kind of training closer to the community, then certainly that would be one vehicle.

There are also some very highly skilled people in some of the universities and working in various municipalities who might also be a part of the team approach to training police effectively in possibly a community college setting.

The Chair: Thank you once again for coming before the committee and sharing your brief and your comments. We appreciate it and I am sure it will be useful to the committee later on.

BLACK ACTION DEFENCE COMMITTEE

The Chair: Our next presenter will be from the Black Action Defence Committee, Dudley Laws, chairperson. Please come forward. You might introduce the other member of your delegation, please. As you may have heard, we allow 30 minutes per delegation. Hopefully you can leave some time for some questions and answers. Please proceed.

Mr Laws: My name is Dudley Laws, chairperson of the Black Action Defence Committee. This is Akua Benjamin, vice-chairperson, and Dari Meade. Ms Benjamin will read the statement.

1300

Ms Benjamin: The Black Action Defence Committee welcomes this opportunity to present our recommendations on amendments to the Police Act, that is, Bill 107. We believe that it is by amending the legislation that the present inadequacies and gaps in policing can be effectively remedied.

Black Action Defence Committee was formed in 1988 in response to the fatal shooting of Lester Donaldson by Metropolitan Toronto police. While the focus of our work has been on addressing police harassment, brutality and shootings in the black community, we have been consistently advocating democratic reforms in police services which will result in safe and proper policing for the benefit of the community at large. Our submission, therefore, addresses the following areas: an independent civilian investigative body; the use of force; employment equity; and police conduct.

Independent civilian investigative body: The creation of this body has been strongly advocated by Black Action Defence Committee and other groups and organizations in the black community as well as in the broader community. This has been a demand since Buddy Evans's shooting by Metro police in 1979. This has also been one of the many recommendations of the task force on policing.

We recommend that the mandate of the investigative unit proposed in Bill 107 be amended to include all offences. The present bill states in subsection 112(4) that,

"The director...shall...cause investigations to be conducted into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers."

Given the numerous incidents of police harassment and brutality against members of the black community, investigations of all offences, in any circumstance, would act as a deter-

rent against abuses. We are stressing that the wording be changed from "serious injuries" to be all-inclusive; that is, it should address all offences, not just the serious ones.

With respect to the structure of the investigatory body, Bill 107 proposes that the unit be a special investigations unit within the Ministry of the Solicitor General. Black Action Defence Committee is opposed to such a structure. The Solicitor General is the top cop, and the link between the police force and the Ministry of the Solicitor General is very strong. Therefore, the Solicitor General cannot be expected to play the dispassionate role of monitoring its own performance.

Black Action Defence Committee recommends the creation of a civilian investigative body reporting directly to a parliamentary committee composed of members of government and the opposition. It should be staffed by trained investigators who have never been, nor are, police officers. The staff should reflect the diverse composition of the population. The monitoring role of this body will be strengthened if it is accountable to the public. It should be required to publish annual reports that are open to public scrutiny and it should utilize consultative mechanisms to solicit community input in program and policy direction.

We wish to emphasize that the creation of a civilian investigatory body independent of the police will not only create the factor of impartiality, it will also appear to be impartial, thus restoring the feelings of trust of police that presently do not exist in the community.

Use of force: The drawing and firing of weapons by police officers is an issue that must be addressed in the regulation. Black Action Defence Committee strongly recommends that police officers be required by law to file a written report each time they unholster, draw and fire a gun. The report should include all the significant and relevant details, including the time, place, circumstances and action taken with the weapon. It is important also that the race, gender and age of the individuals involved are documented. These reports should be filed with the civilian investigatory body.

Employment equity: The Metro police force should be required by law to adopt employment equity measures for all boards, commissions and other services. In order to reflect the diverse population that it protects, the Police Act should be amended to set mandatory employment equity goals and timetables. Part of the employment equity initiatives must include ongoing training at all levels to ensure cultural sensitivity and an understanding of the needs and strengths of the various ethnocultural communities.

Just to depart from it a little bit, I want to emphasize that when we talk about training here we are talking about cultural sensitivity, but the Black Action Defence Committee is also concerned about other areas of training. That training must be similar, I think, to much of the training that most professionals receive at this point.

Police conduct: The police force has threatened to take work-to-rule action when a fellow officer is charged with a criminal offence. The Police Act should be amended to prohibit such action. Such retaliatory action, including the printing of political buttons and advertisements in the daily newspapers, are attempts at influencing public opinion and affecting the outcome of due process.

We urge you to include these recommended changes to the public act, as speeding reforms will go a long way towards strengthening the regulation and changing the existing climate of mistrust and suspicion.

Mr Laws: I would ask Mr Meade to say a few words.

Mr Meade: I do not think the need for major reform in the police can be emphasized any more strongly than it has been at present. People from all walks of life are suggesting it. It was suggested years ago. It seems to me that if we do not really stand up and beckon the call for serious changes, serious legislation that can monitor the police, none of us are really serious in the end and that we are really only protecting our own little 9 to 5. We are really playing for public opinion as it measures three or four years down the road so we can be re-elected, and we do not necessarily have an interest in truth and justice.

I think the operative thing here is that all of us have to search among ourselves and realize that we are after the same goal. It is all about building a safe, humane, just, proper Canadian society of all races and nationalities of people. That is very important to be understood. The nationalities that have been left out in the cold for so long, who have had the doors of justice slammed in their faces for so long and keep rapping on that door, are begging and they are asking you please to consider seriously using your various offices and those of your colleagues and to think seriously about these recommendations, because without these recommendations, I can assure you that we are going to have major chaos and anarchy on our hands.

Mr Laws: The black community and the police of Metropolitan Toronto stand at a crossroads of serious confrontation. For many years, citizens of the black community have met with former Solicitors General, chiefs of police, boards of police commissioners, mayors of Toronto, councillors and all different sectors of governments of this city and this province to bring about changes to policing in Metropolitan Toronto. Even recently there was a conference on policing put on by the Jamaican Canadian Association and the Metropolitan Toronto Police Association. Even at that meeting the police refused to acknowledge that there is a problem with policing in this city.

1310

I say that if they do not acknowledge there is a problem, there cannot be a solution. After the shooting of Buddy Evans, Albert Johnson, Lester Donaldson, Sophia Cook, Wade Lawson and now Marlon Neal, it is only a blind person or somebody with a mental problem who cannot understand and see that there is a problem within the police force.

You have a responsibility to the citizens of this city, I have a responsibility, we of the Black Action Defence Committee and members of other organizations who have appeared before you have a responsibility to bring about changes in the police force, to let the citizens of this city know that the police are not a law unto themselves.

We have watched the police force commit crimes within the police force that are not prosecuted. When citizens go out and speak out against police officers, they are being abused and they are being called different names in the community.

Why do we need an independent civilian investigatory body? Because people have been threatened by police officers when they make complaints against fellow officers, and we have evidence of that. When a mother wakes up in the middle of the night and sees the task force with submachine guns in her bedroom, with her child or children, should she go to the same police force to report what is happening to her? When a black woman walks down Vaughan Road or Bathurst Street and is stopped by an officer for no reason and searched to see whether she is a Canadian citizen or not, should she go to the same police officer or force to lay a complaint?

We have a serious problem. The Metropolitan Board of Commissioners of Police is a useless article, or whatever you

want to call it; it is a useless body that is not doing anything for the benefit of the citizens of this country. It should be disbanded. It is useless. It has refused even to pass a simple motion that the police take care in the drawing of their guns.

I take this situation very, very seriously, because I have a responsibility to my children, who live in this country, and to my community. It is not a joke any longer. We cannot continue to see people in our community being shot down when they are unarmed: a woman shot in the back while she is strapped in the seat of a car, no threat at all to a police officer; a police officer firing three shots into a car, shooting somebody in the back. This is reality; this is not something that I made up overnight. This is real and it is happening here in Toronto. Metropolitan Toronto policemen have created a reputation for themselves beyond the boundaries of Metropolitan Toronto, beyond the boundaries of Canada. They have now created a reputation for themselves.

If we must bring some kind of respectability to the police force, we have to have that civilian input where citizens of this city or this province can complain to an independent body of persons about misconduct of police officers and that misconduct can be investigated by that independent body. Charges should be laid by that investigative body if charges are necessary.

If this is just another kind of cycle of hearings or reports that we have seen over the years, like Marant, Pitman, Carter, all of those reports, the Lewis report, if this is just an exercise, then you all must take the blame in the future when another black person or even when another white person has been shot unnecessarily by the police. Your task is a serious task. I hope that when you have made your recommendations to the House, you will go beyond what is recommended in these recommendations today. We are in very serious times. I for one do not want to see any more of my people being shot down by police officers.

Mr Philip: Under the present Metropolitan Toronto Police Force Complaints Act, there is no independent investigation at the preliminary level. There is no independent audit. There is no right of the police complaints commissioner to initiate his own systemic inquiries, if you like. Racism is not even an offence under the disciplinary code.

You have had to work under that police complaints procedure for more than 10 years. Would you agree that those are some major problems in the present Metropolitan Toronto police complaints procedures, that they are being perpetuated in this legislation and that therefore the problems are likely to be perpetuated in this legislation if those four problems are not corrected?

Ms Benjamin: I definitely would support all the statements that you have just made. Part of what is also wrong with that particular procedure is that if and when—these instances are very few in number—a policeman has been found guilty of a particular offence against an individual, it then goes, I believe, to the chief of police, who then sets in motion some disciplinary kind of action. On the last three or four occasions when that happened, the police talked about, if not instituted, a work to rule, again showing that they are outside of any disciplinary procedure, outside of a process of law and order.

The Law Union of Ontario—I do not know if it presented to you—has documented over the years statistical data that talk about, from day one right up until the disciplinary procedures, the number of cases that have gone and that have received any

kind of sanctions in favour of the complainant. They are very, very few.

In essence, the present body is very inadequate. We would like to see an overhaul of that.

Mr Philip: I want to ask you one question that relates to something no one else to my recollection has proposed, and that is the rather interesting proposal that the civilian investigative body report directly to a parliamentary committee.

At the time the Conservative government set up the Ombudsman in Ontario, it was argued by my colleague Pat Lawlor, and indeed agreed to by all three parties, that because it was a new act, because it was one that required some supervision, a non-partisan parliamentary committee should review the operations of the Ombudsman on a continuous basis. I think everyone would agree that this has been a very useful exercise. When there were complaints about the length of time it took to get a complaint handled, that was dealt with by the committee and resolved by Dr Hill and Mrs Meslin.

In contrast, I guess, there is the Ontario Human Rights Commission. There are a great number of complaints, particularly about delays and getting any kind of action, and we have to go through the elaborate procedure of asking questions in the House or hope that we can get occasionally an odd question in at estimates, if it ever comes up for estimates.

Is it your feeling that, at least perhaps as a compromise to what you are suggesting, maybe a select committee could be set up for a period of the first three years of the operation of this new system? At that time, if it were necessary to continue that committee, it could be changed to a standing committee to continue to monitor and advise on the operations of this new ombudsman that is being formed by this bill.

1320

Ms Benjamin: While not knowing all the details of the Office of the Ombudsman, that body certainly seems to be an effective mechanism for dealing with public complaints. That is why we are suggesting the parliamentary committee, or it can be a select committee, but a body that is at arm's length from the Solicitor General, as well as, I think, from the Attorney General.

Why? Mr Laws referred to the fact that we have had meetings with so many different ministers over the years. At one point when we spoke with the Solicitor General and the Attorney General, there was a lot of confusion, particularly in terms of shootings. What kinds of jurisdiction did each have? At that point it is simply not clear. So one leans either to the Solicitor General, who administers the police force, or to the Attorney General.

Answers needed by the community seem not to come forward from any department, so there is a lot of mistrust about both departments, as well as about the expedition. On expediting this matter, we feel that it takes quite a long time from the time a shooting takes place before we can know if charges are going to be laid, except in the Marlon Neal case. That one was different. Over the years it has taken months before something happened. We feel that a committee composed of members of Parliament will expedite it.

Mr Philip: I think that is an excellent proposal and it is one that would allow us also to review all the regulations that they have not brought in and the implications of which we yet do not know.

Mrs Marland: There is a sentence at the end of page 2 that disturbs me very much. You are talking about the need to

emphasize "the creation of a civilian investigatory body independent of the police will not only create the factor of impartiality"—and it is the next statement I want to ask you about—"it will also appear to be impartial, thus restoring the feelings of trust of police that presently do not exist in the community." I would like you to tell me what community you are referring to in that.

Mr Laws: We are talking primarily about the black community. I am also talking about the white community as well. We do not work in isolation in the black community alone. We have had a lot of reports from trade unions, labour movements, women's movements and individuals. Schools have called us to tell about the reaction of white children in school to the shooting of Marlon Neal. The shootings and the actions of police affect the black community and also the total community. There is not total respect for the Metropolitan Toronto police in the community at large.

Mrs Marland: That is your opinion, Mr Laws.

Mr Laws: A well-founded opinion.

Mrs Marland: I am not going to debate your opinion. I am simply saying that is a very major statement because there is trust for the police in the community.

Mr Laws: You are saying there is trust for the police?

Mrs Marland: You are saying that it needs to be restored. I am just asking you to clarify for me what you meant by community.

On the next page you say, "It is important also that the race, gender and age of the individual(s)...are documented," when you talk about the importance of police filing these reports. I agree with you that it is important. Would you also agree that it is important that those reports be released and made public?

Ms Benjamin: I think it is very important that we have data on the number of arrests, the number of criminal charges, the whole justice system. I think we need to compile data based on all these factors, but I want to caution against it as well, because it is one thing to have the data; everybody who collects data knows how data can be interpreted to suit a particular interest. So I caution against that.

The other thing I want to point out about these kinds of data is that while the data may show an overrepresentation of any one of these factors, by gender, by sex, by race, by disability if you will, there may be an overrepresentation. We know for instance that there is already an overrepresentation of blacks in the criminal justice system. If one can infer from those data that blacks have a propensity to crime, that is not the point. There is on the side of the police this overzealousness to charge, to criminalize members of the black community, and that is what shows up in the data.

While I say that we need the data, I also say that caution has to be exercised in terms of the data that are collected, in the way in which they are compiled, and of course I think it has to come out with an analysis talking about why there is an overrepresentation of one group or one gender in the community.

Mrs Marland: What is the answer to my question? Do you believe those should be released to the public?

Ms Benjamin: I think everything within this investigative unit has to be public.

Mrs Marland: My final question is with regard to where you are talking about police conduct. You say, "Such retaliatory

action, including the printing of political buttons and advertisements in the daily newspapers, are attempts at influencing public opinion and affecting the outcome of due process." You are here in due process today, appearing before this committee. I am here in due process, because my father died fighting for us to live in a democracy. We have freedom of the press and we have opportunity to get involved with political buttons even in our campaigns. Would you take that away from one particular employee group of our community?

Mr Laws: That is not what we are talking about. I will give you an example. The officers who shot Wade Lawson in Mississauga in Peel region have issued buttons, "We support Longpre and Melaragni," and they wear these buttons on the job. They have even given these buttons to nurses who work in the hospital. So effective are these buttons that the mother of Wade Lawson had a car accident and she went to the hospital and there right in front of her the nurses were wearing the buttons. They certainly had an effect on her.

If I am charged with attempted murder or something and my family goes out and says that it supports me, I mean, it influences the community. What the police are saying is: "We do not want due process to take its course. The man is innocent." They are going against the very law that they are out there to protect.

Mrs Marland: I think you overestimate the impact on the community, and that is what I wanted to ask you.

Mr Curling: It is unfortunate that time is running out on us here, but again I could say that you have made your case over the years—many very eloquent and very articulate people from the black community. Mr Laws, I personally would say to you that I commend you for your consistency, and many of the other groups. I will call them activists. I am proud to know that you are activists, because, as you said, justice must be done. You have been crying this for a long time, and many other people in the black community. I think you have sensitized the government and politicians to know that these things are happening.

In the meantime, I think we have a police force too that wants to have a good police force. I think there are awful elements and bad elements within the police system.

Having said that, I just want to say too that bringing about Bill 107 is a move to correct some of the things that are happening. I do not think it will completely change the attitude. We do not expect legislation to change everyone's attitude, but it is a good direction. My question then is, as inadequate as some parts of the bill are, do you believe this bill is a step forward and you would rather have this without anything else?

Mr Laws: I think this is a step forward, if implementation of an independent civilian body is included without the participation of police officers. I would like to say this: It does not

matter how many pieces of policy papers or recommendations or presentations we may give to this committee; what is important is what the man in the street feels when he is confronted by a police officer. We may have a million recommendations, but when someone is stopped in a car or stopped on the street, whether that person is guilty or not, we expect the police officer to act in a professional, decent and respectable manner. That should be the result of all our efforts.

Mr Curling: Are you prepared to work together with the police force to bring about a good police force in this community? You said, "Let us abolish the police commission because it is not serving a good purpose." What would the alternatives to that be?

Ms Benjamin: I think part of what we are doing here is working in the interests of the police and working with the police, even though they did not initiate or perhaps support the bill in its entirety—maybe some aspects of it.

On the first point that you were making about individual attitudes, I think this is a racist society. I do not think that; I know that. There have been all kinds of documents that support that statement. It is a racist society and the institution of the police is only one of the institutions where you are going to have that kind of racism being perpetuated in whatever form. The individual is free to do whatever he likes, but I think institutions have a responsibility in this society to change systems that will curb attitudes, that will change attitudes.

This is what we think this investigative body will do. When such a body is developed, it will show police officers that they cannot simply unholster and draw their firearms against somebody of colour, because of some old stereotype, without a reprisal. We think that kind of lesson is going to go a long way towards stopping many of the harassments and brutalities and shootings that we see in the community. We do not say that it is going to wipe it out completely, but there will be a mechanism in place to deal with it, and there is no such mechanism to deal with it effectively at the present time.

We have been saying for quite a long time too that in a democratic society such as this—this is a democracy—one cannot not have an institution which monitors, regulates and also sanctions the police. The only institution I know of in this country where there is nothing in place against criminal acts and criminal behaviour and misconduct of any member of the organization is the police. We need to build something in place to deal with those issues.

The Acting Chair (Mr Kanter): I would like to thank Mr Curling, all members of the committee and the deputants for completing their presentation within a very tight time frame. The committee will reconvene at 3:30 this afternoon.

The committee recessed at 1332.

AFTERNOON SITTING

The committee resumed at 1537.

JANE FINCH
COMMUNITY LEGAL SERVICES;
JANE-FINCH
CONCERNED CITIZENS' ORGANIZATION

The Acting Chair (Mr D. R. Cooke): Our first witness this afternoon is from the Jane Finch Community Legal Services and Jane-Finch Concerned Citizens' Organization, Roger Rowe. Welcome, Mr Rowe. The brief is in front of us. Perhaps you could lead us through it and then entertain some questions. We have allotted about half an hour in total.

Mr Rowe: I have lived and worked and studied in the Jane-Finch area for about 11 years. I am speaking on behalf of the Jane Finch legal clinic and the Jane-Finch Concerned Citizens' Organization, and I am here to tell you that we support the principle of law and order, contrary to what you may have read in the press. We believe in fair and effective policing in our community. We are concerned that members in our community are not receiving fair policing and we see this as an opportunity to address the issue.

Our first main area of concern relates to the absence of regulations to accompany Bill 107. It seems that many of the main issues, such as use of force and police disciplinary measures, are contained in regulations. It would just be a lot more useful for our discussion if we could have the regulations here. So our first recommendation is that you issue the regulations as soon as possible and give the public a chance to comment on them.

Our second concern relates to the use of force. This topic, as important as it is, does not appear to be directly addressed by Bill 107. We would like to see that the regulations are amended or that in some way Bill 107 addresses the concern that, first of all, an officer not be allowed to draw his gun unless it is necessary for the protection of his or her life or the life of another. That is straight out of recommendations 25 and 26 of the Lewis task force report.

We would like to see a mandatory minimum standard qualification in the training and use of firearms by police, because it appears now that, without completing the police college training course, academic requirements and firearm requirements, people can still be authorized to use a firearm if they satisfy the chief that they are competent in the use of it. What we would like to see is some sort of uniform minimum standard qualification and also that officers be required to requalify every year.

The next concern related to the use of force pertains to our desire to have clear provincial guidelines regarding the format of use-of-force reports and the circumstances in which they should be completed, including the requirement that a report be written every time an officer draws his gun from the holster. At the present time, investigations are only required when the gun is discharged.

The issue of requiring written reports whenever a gun is drawn from a holster was an issue in a council meeting recently. One of the councillors indicated that imposing such a requirement would have the effect of constraining officers in defending their lives, that they would think in a life-and-death

situation that they might have to write a report and might be hesitant in drawing their weapon.

We find this kind of reasoning to be a little bit fallacious. In a life-and-death situation your survival instincts are going to dictate how you are going to act. We do not see that imposing a requirement that an officer be required to write a report when he draws his weapon is going to somehow make him think twice about defending his life if he is in a circumstance when he needs to use his gun.

The third issue of priority we would like to see addressed relates to having a definition of racially prejudiced police behaviour incorporated into either the regulations or Bill 107, so that we have a mutual understanding of what we perceive the problem to be and what the proscribed conduct is. That is further to recommendation 37 of the Lewis task force report.

The fourth issue of priority relates to race-based crime statistics. This has been a particular concern in our community where, as you may or may not know, statistics were released by the inspector of the division indicating that most of the crime is committed by black people. Recently, we had comments by Metro Chairman Tonks to the effect that the amount of criminality in the black population is disproportionately high.

We believe this is irresponsible reporting of information relating to the commission of crimes and we would like to see this regulated in some way. We think it is very dangerous and many times it is inaccurate and has the effect of criminalizing all black people and making them all suspects in their own neighbourhood.

I live and work in the Jane-Finch area and when Metro Chairman Tonks makes statements such as he made or the inspector of 31 Division releases that sort of information and makes me a suspect in my own community, it not only promotes racism in the police force but in the general community as well. We would like to see the creation and disclosure of race-based crime statistics regulated in some way to ensure that it is done fairly and accurately, if it need be done at all.

The fifth issue of priority relates to our desire to see an independent civilian review of police misconduct. The current scheme provided for in Bill 107 still amounts to police investigating their own misconduct and we have concerns about the impartiality, independence and fairness of such a process.

I am sure you have heard this all before and, to be quite honest, since I was a high school student I have heard members of my community and other individuals calling for this independent civilian review. We have the new legislation and it still does not incorporate the concern, and I guess we can take that as an indication of the political willingness to implement what we are asking for. We believe that having an independent civilian review would do a lot more to encourage trust and respect for the investigation process. The civilian body should have the power to initiate its own investigation into allegations of police misconduct.

The other concern that we have related to this area is that the police disciplinary process should not be used as a way of circumventing criminal due process. The example that comes to mind is the recent instance of the police officer who is involved in the prostitution ring and who is able to circumvent criminal due process by having the matter dealt with as a disciplinary matter. He ultimately resigned, and to the best of my knowledge there have been no charges laid against him. We believe that is

unfair and that criminal matters should be dealt with by criminal due process, and there should be a separation between matters that are criminal involving police misconduct and matters that are in fact properly dealt with under the disciplinary code of the police.

The next issue pertains to subsection 95(5) of Bill 107, which provides that the police are not to be compellable as witnesses. It will be very difficult to have all the evidence before the board of inquiry if the policemen involved are not compellable as witnesses, so of course we would recommend that this section be amended to make the police officers compellable. Maybe you can provide a bit of a rationale for why they would not want to make police officers compellable as witnesses. I do not understand it really.

The seventh issue relates to visible minority representation on the various boards and commissions that are to be appointed under Bill 107—the Ontario Civilian Commission on Police Services, the municipal police services boards, the boards of inquiry.

I believe that principles 5 and 6 of section 1 of Bill 107 provide that you want to encourage visible minority representation and sensitivity to visible minority issues. It is just not clear, from my reading of Bill 107, how you intend to implement this. I guess some sort of clarification as to how you are going to ensure visible minority representation on these key boards and tribunals is indicated.

The eighth issue of priority relates to having Bill 107 or the regulations impose a positive duty on police officers to report officer misconduct. Under the present regulations it is not a mandatory duty, it is permissive. We believe it would encourage more reporting of police misconduct if we could somehow make it mandatory that officers who may not be involved but who know what is going on have an obligation to report it. It is in both their interests and ours that that be the case, in order to distinguish themselves from the bad apples in the bunch and build community trust in the police.

The ninth issue of priority relates to criteria for hiring. I believe that is addressed in section 43 of Bill 107. We recommend that the minimum age eligibility requirement be raised from 18 to 21 in light of the very high demands and pressures involved in police work and the dangers involved—an 18-year-old person is too young to have that sort of responsibility—and that there be a requirement added to that list of criteria for hiring that police officers be required to have one year of community experience or involvement. This relates to the philosophy of policing, which hopefully will emphasize community development a little bit more than just traditional enforcement.

1550

I appended to the end of the brief a news article from the Toronto Star, dated 17 February 1989. It just documents the release of the statistics by the inspector of 31 Division, which is the division that governs our area, and the response to that.

On the very last page of the brief there is a directive that was issued by the police to different store employees indicating that there is a shoplifting problem and that most of the suspects are usually young blacks. This is the sort of thing that we would like to see addressed in legislation. The danger of that sort of reporting of crime information and disclosure of crime information is too serious to not have it addressed by the legislation. If we have to keep race-based statistics, please let's ensure that it is done in a fair and accurate way.

What the article and the directive from the police show is that in the past it has not been done responsibly, and I have a certain amount of self-interest in this. I am speaking for the clinic and the Jane-Finch Concerned Citizens and for myself too on this one. We want to ensure that the crime statistics are reported fairly and accurately.

In conclusion, we commend the Solicitor General for his efforts in trying to improve police services in Ontario. We are convinced of his sincerity and we are willing to work in co-operation with him. As I say, we respect law and order and we want to see fair and effective policing in the community.

Mr Kormos: You talk about a working definition of racially prejudiced police behaviour. I have no quarrel with that. The problem is, though, that once you get a specific definition, people are going to become argumentative about whether or not their conduct fits within that definition and will be avoiding the consequences that should flow.

Mr Tonks might argue that he was not motivated by racial prejudice. The most effective argument could perhaps be stupidity. He could well argue that it was not racial prejudice that motivated him, but rather outright ignorance. How would you approach the matter of defining racially prejudiced behaviour? I am just saying that that is the difficulty I see. The more precise the definition, the more you are going to have people arguing that their conduct, while perhaps inappropriate, did not fall within that class.

Mr Rowe: Yes, I understand what you are saying and I agree that the issue of finding a definition that would not allow people to escape the purpose and intent of why you are putting it there is difficult to do, but I am sure that working in conjunction with the Ontario Human Rights Commission and with individuals who have training and educational qualifications in sociology or in the area of racial discrimination can combine their efforts and come up with a reasonable definition.

Mr Kormos: In my view, Toronto has seen little leadership from the chairperson of its police commission or from some of its leading members, specifically Rowlands and Tonks. We have talked frequently about the fact that the province still wants to retain the right to appoint members to police commissions rather than those members being elected persons by virtue of being elected to city councils or regional councils.

My view of most provincial appointees is that they are political hacks who have little expertise or little meaningful contribution, little familiarity with policing or the community even, and that it is not a matter of what you know, it is a matter of who you know that gets you on to a police commission. How do you feel about provincial appointments to police commissions?

Mr Rowe: I think I would rather see them elected, for the reasons that you very articulately just set out. That is not to say that all appointments are necessarily not properly done or that all appointees are not properly qualified people, but I guess in my view it would be much more fair and present more of an opportunity for democratic representation of the groups affected if you would let the individuals be elected as opposed to being appointed.

Mr Kormos: When Mayor Eggleton was here, he and some of his delegation said that those appointments should be people who reflect the diverse nature of the community. Perhaps what that means is that they should be members of visible minorities and what have you. That is an attractive proposition

but one that requires a great deal of trust, a leap of faith, if you will, to believe that a government is going to persistently do it.

Thank you for your comments. I appreciate them.

Mr Curling: Mr Rowe, I thank you for your submission, because it is extremely important. You are coming from an area that, as you said, has been very high profile for one reason or the other in the papers with regard to police relations.

First, I should maybe comment on the news release of July 1988 that you saw here from the Metropolitan Toronto Police. I recall this very well, because it was brought to the attention of cabinet at the time it was done. When we investigated, the police force responded by saying that it had no knowledge of this, that it was not properly authorized and that presumably some individual who did not use the proper procedure put it on the letterhead of the police.

I mention that because we are dealing with very sensitive issues here and we at times should say that yes, these are the types of things that happen on a police force and it is an individual who has done this and the police have apologized for that kind of behaviour and have said they do not condone that kind of thing. I just want to make sure about that so we can focus on the issue at hand, and it is the relationship, so to speak. On this one itself, I know that some of my colleagues present this very often, and I take the time to make mention that this is not so.

It brings me then to one of the points you made here. You said, "In conclusion, we commend the Solicitor General for his tremendous efforts." I know that my colleagues work extremely hard to bring about recommendations, and these things have been in the mill for years, I gather, from my other colleague, who has been in the House a long time, since 1977. The Conservative government and other members have tried to put things through the House and they did not materialize.

Chief McCormack arrived on the scene when things were really at the boiling point. While I commend my colleagues here, I think he has an extremely difficult job to do. The first is to reach out to that community that says they are not communicating, and also to carry out the law. What is your feeling about Chief McCormack and his work?

Mr Rowe: I do not know if I can really comment on him personally. I am looking at the effects of policing as it is done now in the community that I come from. He is the head of the police department and I think he has to take some responsibility. He has said a lot of things in the press about supporting the task force recommendations and all of that. It sounds good.

The practical reality is that in our community we do not feel we are getting fair policing and we would like to see that. I do not know if everything can be put on one man's shoulders, the chief, but he is at the top and he has to take some responsibility. I would not want to put it all on his shoulders.

Part of the problem you are going to face with Bill 107 is the attitude. You cannot change attitudes with a law and you are going to have to educate the chief and the people who work under him as well. He can be an angel, but if his men do not share the same attitude he does, then we are not really any further ahead. For you to ask me what I think of him personally—

Mr Curling: No, his job, not him personally. I am just talking about his role as a chief.

1600

Mr Rowe: As I say, I think he has to bear some of the responsibility for what his men are doing. Beyond that, I cannot really safely comment and focus on just him.

Mr Curling: You have answered it. I think you have expressed in your response that it is an enormous job that he has and that we all have this enormous task to bring about the best policing system we can have.

The other question I would like to ask is in regard to statistics. As I was reading this, it seemed to me that there is a foregone conclusion that they will collect statistics. Are you for the collection of statistics? Are you concerned about the use of those statistics? First, do you think they should be collected, and if they should be collected, do you have any suggestion on how they could be used?

Mr Rowe: I think it depends on how they are being collected and for what purpose. I am not an expert on policing management and policing procedure. I know that in most lines of work, in order to improve management practices you document what you are doing and you keep statistics. What I have presented to you are examples of how this is being done in relation to blacks and the police and crime. That, to me, is not an example of a proper use of crime statistics.

I am not saying that it is a foregone conclusion they are going to do it. I am saying that, if they are going to do it, let the creation and disclosure of the information they gather be done in a fair and responsible way and let it be governed by some sort of regulation so that we can avoid these sorts of irresponsible disclosures of inaccurate information. So to answer your question, it depends on the purpose for which it is done, the way in which it is done and how it is regulated.

Mr Curling: I have just one more question in respect to the community relationship with police. I raise that because I think the Jane-Finch area is where it really developed to a very high degree, police working along with the community, playing basketball, etc, and getting into the activities of the community. I gather that the relationship is at its lowest ebb now, because it is said that policemen have used that process to find out who the criminals are and who should be stooling on the others there.

If this fails, if that is the case, what other approaches do you feel would improve community relationship programs? As you have rightly said, the legislation will never in its total sense modify behaviour. It may have laws and guidelines which we may follow, but behaviour patterns may stay and some of these community outreach programs will help. Now that that itself seems to be in jeopardy, what other ways do you feel the community can work along with the police and the police work along with the community?

Mr Rowe: If we can require some sort of community involvement by police, or community training or something as a criterion for hiring, and even for those who are on the force now, to sensitize them to the issues and the people in the community, that is a start. I think certain complex issues of unemployment and certain economic issues are causing problems that are resulting in ghettoization and so the police are really having to deal with problems that are not their creation.

The issue is wider than just the police and the black community. It is very complex. The problems that are causing certain groups to encounter the police in a confrontational situation need to be addressed. It is more than just increasing community relations between the police and the community. I mean, you

have to address issues of unemployment and distribution of wealth and ghettoization and make sure there are adequate social services, adequate recreational facilities and things like this, which cannot really be addressed through a focus on the police-community issue. The problems that are faced by the police and the community are wider than just the two entities involved.

Mr Campbell: I very much appreciate what you said about wider community problems than just a narrow focus. I am pleased you pointed that out, because I think it is very helpful to the committee.

My question, though, deals with the election aspect that you mentioned previously to Mr Curling's questions. I am familiar with some of the jurisdictions in the United States that elect everybody and sometimes have a little difficulty with who really runs the police department. I am wondering if you have looked at those jurisdictions to see what balance is there for all of the community, not one sector or another. I am just wondering if you could comment further if you have.

Mr Rowe: I am not aware of how it is done in other jurisdictions. The reason I favour the election process is to ensure a democratic and fair way of letting the people choose who they want to sit on these different boards and so on. Perhaps you can clarify what the concern is that you fear in allowing an election process to be the one that is used as opposed to an appointment process.

Mr Campbell: Suffice to say that I certainly was familiar 20 years ago with some jurisdictions in the southern United States, for example, that elected a number of police enforcement people, and it was very difficult to get a balanced enforcement, a broad enforcement—probably similar to some of the debates we are having today—because of the election of the number of people in those sensitive areas, whether it is chief of police, sheriff or boards of commissioners, county commissioners, in some states.

I would be very much concerned that that would happen here as well, because, while they have attempted in some of those jurisdictions to have a balance, I am not sure they have succeeded. I guess you would have to talk to our opposite numbers or people who know or could find out from those jurisdictions. I know no system is perfect, but I am very much concerned about that aspect of law enforcement in other jurisdictions in the United States that report back that the balance is not there. I just leave that with you.

Mr Rowe: I think what you are saying is that election does not ensure that you have visible minority representation. Is that what you are getting at?

Mr Campbell: Absolutely.

Mr Rowe: It is not that there must be a visible minority there. We want someone good there, whoever he is, whatever his background is. Even if the election process will not ensure that you get a visible minority person there, at least it provides a means by which people can have more of a say.

Mr Campbell: I guess what I am saying is that that does not ensure, because I did not imply that it would be only visible minorities, but people who had an understanding of the policing problem and all of those kinds of things.

Mr Philip: I would appreciate your experience, as someone operating a legal service, on this.

If one of your clients is under investigation by the police for a given alleged crime, I am sure you would agree that that client

is not informed he is under investigation until that investigation has reached such a stage as the investigation is relatively complete.

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I wonder if you would take a look at subsection 78(1) of the bill. Under this section of this bill, the moment a complaint is received "the person in charge shall forthwith give the police officer notice of the substance of the complaint." Is that setting a double standard (1) when it involves a complaint against a police officer, and (2) when it involves a complaint against an ordinary citizen?

Nobody comes and tells me if I am under investigation or if there is a complaint about me until they have got the evidence to lay charges, yet a police officer is going to be informed before the investigation starts that there is something going on. Would that open up the door for the destruction of evidence against that police officer or the altering of his memo book or whatever other documents?

Mr Rowe: There is a possibility of that and, yes, there is a double standard there.

Mr Philip: So you agree that it is a double standard. Should we be looking at an amendment to that so that police officers under investigation are being treated like other citizens who are under investigation?

Mr Rowe: Before I answer that, I have another concern. It relates to subsection 95(5), which says that a police person is not compellable, and ordinarily you cannot compel an ordinary citizen to testify against himself. In my brief I indicate that I would like to see subsection 95(5) amended to make the police officer compellable. Of course, the corresponding argument will be, "Well, citizens are not compellable, so isn't there a double standard there as well?" So before I can answer your question on section 78, I have to address this concern with regard to subsection 95(5).

What distinguishes a police officer from the ordinary citizen is that he has the right to use deadly force against his fellow citizens and he is insulated from criminal liability for his use of deadly force where he does it in the conduct of his duties by subsection 25(4) of the code and regulation 790, paragraphs 8, 9, and 9a.

Because he has that, if you want to call it a privilege, then I think it is fair to require that in circumstances where a person is, for example, injured in the use of force or deadly force, certain rights that are ordinarily afforded to the general population he should have to forgo. That is why I would argue that he should be compellable in those circumstances under subsection 95(5). To me, that addresses the double standard argument as it would work in favour of a police officer in that circumstance.

Mr Philip: So you are saying if you get what you want in 95(5), then you are willing to put up with the double standard in 78(1).

Mr Rowe: Right.

Mr Philip: Let me ask you another question. Over the years you have had to work under the present Metro police complaints procedure. Would you agree that the majority of the complaints that were made, not just by myself but by the Liberals in opposition, against the original police complaints procedure—namely, the lack of independent investigation at the initial stage, no independent auditing of the procedure, no right to initiate on his own action an investigation, unlike the human

rights commission or the Ombudsman—all of these problems that exist in the present Metro police complaints procedure are being duplicated in this legislation?

Mr Rowe: Exactly.

Mr Philip: Can you see any reason why, therefore, after all of this experience with the present situation in Toronto, and indeed with the rationalization by the Premier that this legislation, which was introduced and tabled in the House on 20 December 1989, now suddenly became an emergency bill, we should suddenly—I mean, what is the emergency if we are not changing any of the things that the existing legislation is actually allowing to happen?

Mr Rowe: Your point is very well taken, and I could spend several hours with you going over the flaws that I see with the present Bill 107, but they only gave me half an hour so I just prioritized the main issues of concern as they affect our community. But all the concerns you have raised are accurate and I concur with you there.

Mr Philip: Maybe Sterling Campbell will read his mother's own arguments against this kind of legislation.

The Acting Chair: Thank you, Mr Rowe, very much for the benefit of your hands-on experience. We appreciate it very much.

I can tell the committee that yesterday I prepared, as a private member of the committee, an amendment to section 78, to the effect that it be struck. The clerk informed me this morning that it is in the process of being prepared to be distributed.

Mr Philip: Subsection 78(1) or the whole section?

The Acting Chair: I suggest that all of section 78 be struck, because if you look at sections 77 and 79, they are talking about different notices. I think section 78 is a notice specifically to the accused. Maybe there needs to be a little more research to see if there is any jigsaw that needs to be changed, but I would just say it should be struck.

ONTARIO FEDERATION OF LABOUR

The Acting Chair: The next presentation is from the Ontario Federation of Labour—the director of legislation, Ross McClellan, and the director of human rights responsible for race relations, June Veacock. Welcome to the committee. Your submission is in front of the committee. Perhaps you can lead us through it.

Ms Veacock: The Ontario Federation of Labour represents over 800,000 working men and women in the province of Ontario. A significant number of these workers are members of Ontario's visible minority communities. As such, the federation is very sensitive to the issues that affect members of these communities. We are concerned about the experiences of visible minorities, not only in the workplace but in society generally.

While we are pleased to address this committee, we find it rather disturbing that it has taken the shooting of yet another black youth to bring us to this point. None the less, we are appearing before this committee with the hope that you will recognize the changes that are necessary in order to make this bill effective.

For the sake of brevity, we have concentrated on the three areas of the bill we believe to be most critically in need of change. These areas are: (1) the use of force and the use of firearms, (2) employment equity and (3) public complaints/spe-

cial investigations. We also wish to comment briefly on a fourth concern, about the conduct of the police during a lawful strike.

Before we state our concerns and make suggestions for improvement, let me remind the committee that much of what we are saying here today was the subject of a submission we made to the Lewis Task Force on Race Relations and Policing in February 1989. You should also know that we support the recommendations which came out of this task force. Let me now briefly outline our main points.

Use of force and the use of firearms: There is a widely held perception that excessive and often unnecessary force is used by arresting officers. In fact, the issue of excessive use of force was addressed as long ago as 1976 in the Morand report.

Officers must be made accountable for the manner in which arrests are made. A requirement to submit a report when force is used to secure an arrest is not an unreasonable demand. The Thunder Bay, Halton and Waterloo regions all have policies requiring police officers to document instances where a weapon is drawn, whether that weapon is fired or not.

We strongly support the recommendations of the Lewis task force that call for amendments to regulation 790 of the Police Act that would require police officers to complete and file reports with the policing services division of the Ministry of the Solicitor General when any form of force has been used. We fail to understand why this important reform has been omitted from the provisions of Bill 107.

We also support recommendations which would require officers "to call for assistance in a critical situation when there is no reasonable alternative" and welcome the policy recommendation that "No member of a police force shall draw his revolver except when he believes it may be necessary for the protection of his or her life or the life of another."

Recommendation 26 of the Lewis task force calls on "the government of Ontario to petition the government of Canada to amend section 25(4) of the Criminal Code to restrict its applicability to situations in which the fleeing offender poses an immediate threat of death to police officers or others." We support this recommendation.

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Employment equity: It is simply imperative that the police force be representative of the people it serves. A police force which is non-representative and which regards entire neighbourhoods and communities as somehow foreign is incapable of providing effective law enforcement services. Since the so-called voluntary approach has been an unqualified failure, a mandatory employment equity program must be established for police forces on an Ontario-wide basis. It is far from clear whether Bill 107 does in fact establish a strong employment equity program with mandatory targets and timetables.

What is lacking is a commitment to the establishment of specific targets and timetables. What is also missing is an independent agency with the power to set goals, targets and timetables to monitor their implementation and to enforce compliance. In the absence of such an agency with a clear mandate of enforcement, we are convinced that scepticism and mistrust will continue to prevail, and with legitimate justification.

If employment equity is to be successfully implemented, there is an urgent need for ongoing education and training of police officers. There is a prevailing misconception in Canadian society that members of the groups targeted for employment equity—women, visible minorities, native people and people with disabilities—are not as qualified as those presently holding positions in institutions where the target groups are under-

represented. This is a myth and it must be put to rest. Police officers must be given in-service training and information on employment equity, on race relations and on the reality of institutional discrimination.

Public complaints/special investigations: We cannot stress enough the need for and importance of an independent civilian agency to investigate allegations of misconduct against police officers. However, Bill 107 appears to fall short of the mark. Under the extremely complicated and elaborate public complaint provisions of part VI of the bill, the main responsibility and authority for hearing and investigating complaints by citizens against police misconduct will remain the local police force named in the complaint.

Once a complaint is laid under the provisions of section 76, the local police force will have de facto decision-making authority about how to process the complaint and whether or not to establish a board of inquiry. The local police force holds complete control over the contents of the final report of the investigation which it will conduct.

The commissioner has the power to intervene at various stages in the process, but it should be clear to everybody that the commissioner will need a crystal ball to help him or her decide if and when to intervene. The preparation of all the material facts will remain firmly in the hands of and under the control of the local police force.

It may be argued that the citizen can complain directly to the public complaints commissioner and need not go to the complaint bureau of the local police force under the provisions of clause 76(1)(b), but there is nothing in Bill 107 to oblige the commissioner to investigate the complaint even in this circumstance. The presumption is that all complaints will be handled initially by the local police force. We are left with the status quo: the police investigating themselves.

The special investigations unit described in section 112 of the bill merely perpetuates the present system of police investigating police.

First, it is entirely unclear whether the special investigations unit is a permanent body or whether the investigators will be appointed on an ad hoc basis, case by case. This latter structure would be wholly inappropriate since the investigators would come from the existing police forces.

Second, it is unacceptable to locate the special investigations unit within the Ministry of the Solicitor General, which has direct responsibility for the police in general and for the direct operation of the Ontario Provincial Police. We are back to square one.

Police forces in our society are given extraordinary powers and therefore must be subject to extraordinary scrutiny. In order to reduce tension and improve police-community relations, the government must take decisive action now. How many more reports on race relations and policing do we need? Since 1974, we have had 10 such reports in this province alone. They have consistently recommended the kinds of initiatives we have outlined in our submission today. Further vacillation on this issue could be detrimental to all of us. Without immediate and meaningful action, visible minorities will continue to believe police officers are above the law.

It is our view that without amendments, particularly to the complaints process, this act will do little to alleviate an atmosphere in police-community relations that has become both tense and difficult.

Police and picket lines: The labour movement in Ontario has expressed its concern to our legislators at Queen's Park many times in the past about the conduct of police on picket

lines during a legal strike. We hold to the view that the only real solution lies in the passage of a law to ban the use of strikebreakers during a legal strike, as was done in Quebec in 1978. Failing this, we repeat our insistence that the police must not be used as an escort service for strikebreakers during a legal strike. Further, police officers should be trained to respect the legal rights of working people, which are granted under the Labour Relations Act, to maintain picket lines during a lawful strike.

We expect the Solicitor General to establish firm guidelines under this act to govern the behaviour of police on picket lines and to prevent the intimidation, harassment and flagrantly anti-union behaviour which have been all too common in this province in the past.

On behalf of the Ontario Federation of Labour, I would like to thank the committee for giving us this opportunity to speak to you today.

Mr Kormos: Section 49 of the bill prohibits members of police forces—and there is an amendment coming—from engaging in political activity. Now what the amendment does—and I suspect, because the Liberals do have a majority, it will be passed—is distinguish between civilian employees and police employees. What it will do is prohibit only policing employees from engaging in political activity. My understanding is that more and more police work is being done by non-police officers; for instance, forensic work, fingerprint work, photography. What is your position (1) on barring police officers from engaging in political activity and (2) on distinguishing between police personnel and non-police personnel?

Mr McClellan: One of the things that I suppose is kind of hard about Bill 107 is that it maintains the paramilitary structure of the police forces in this province. Police forces are not supposed to be military or paramilitary operations; they are supposed to be civilian peace officers, civilian peace constables. Police forces are communities of civilians in our political and legal tradition. I do not understand why there are, therefore, all of the restrictions that are applied to them. You have identified one of them: police officers are not permitted to engage in political activity. That is simply one of the burdens that are imposed on police forces under this statute. The whole apparatus of separate, military-like discipline, through boards of inquiry and separate disciplinary procedures, is part of the same package. The simple answer is that police officers should be entitled, as ordinary citizens are, to full participation in the political life of their community.

Mr Kormos: Just one last, brief matter: I have spoken to several other participants in these hearings on the whole business of appointed police commissioners. They have been criticized, not just by laypeople but as a result of research, as being positions being occupied by virtue of one's political connections. Do you have a position as to whether or not people on police commissions, least of all the majority, should be appointed by the province and therefore not be people who are elected, in one way or another, by local ratepayers?

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Mr McClellan: We did not address that in our discussions, so I am not speaking from a federation perspective on this. I do not understand why democratic appointment, through direct election, is not appropriate.

Mr Kormos: Maybe they could clone June Rowlands a million times and appoint her to every police commission.

Mr McClellan: I think we would prefer—

Mr Kormos: I was just wondering if that was a Liberal agenda; I am sorry.

Interjections.

Mr Kormos: No, I am talking about June Rowlands. I can defend Macdonald's behaviour.

Mr Philip: I know of very few police officers I have talked to who would not agree with your view that they would love to have the passage of a law to ban the use of strikebreakers, because one of the most awkward situations that any police officer can find himself in is having to act as a strikebreaker and open up a line. I think a lot of the violence and potential violence on the picket line would certainly be stopped if the government were enlightened enough to do what the government of Quebec did in 1978.

Mr McClellan: If I could just respond on that, there used to be two situations that led to severe problems on picket lines. The first was disputes around first contracts, which were typically nasty situations with employers really digging in and leading to long, difficult strikes that led to serious trouble on the picket lines. Since the passage of a first-contract statute in 1986, that problem has essentially been solved. We feel very strongly that the remaining major problem can equally be solved, through the passage of a statute that would eliminate the root of the problem, which is the use of strikebreakers à la the strike in Timmins that is currently under way.

Mr Philip: You pointed out a number of the problems concerning the independence of the investigation. It is one thing for a trade union to lay a complaint with the police complaints commission and to follow it through and to have the muscle to do so, but in the case of many of your members, they may be fearful of doing so under the present system. Is it your opinion that this bill is any improvement over what your Metro Toronto members have experienced under the present Metro police complaints procedure?

Ms Veacock: No, we do not think it is at all. I think the status quo, as we said here, remains.

Mr Philip: Mr McMurry, when he introduced the first bill and we were debating it, said that we had to understand that because we were introducing new legislation there were some problems in getting acceptance and that perhaps in 10 years' time we could go that one step further. The two opposition parties at that time did not agree. We thought that the changes you are advocating should have taken place then. Do you see any reason why, 10 years later, we should somehow think that it is not time to take that next stage?

Mr McClellan: It remains a mystery. There are two major problems in the way the police complaints sections is structured. The one we have dealt with; it deals with who is in control of the material facts. The local police force remains in control of the development of the material facts around the complaint. The citizen is totally disadvantaged.

But there is a second question I would have to ask the committee. How is a citizen supposed to participate in a board of inquiry, if a board of inquiry gets called, without incurring an enormous potential legal bill? You are setting up an apparatus that a wise citizen would be very careful to avoid. If you are going to make a complaint, you have the prospect of finding yourself enmeshed in a board of inquiry, conceivably for a long period of time, at which, to participate on any valid kind of

basis, you would need to have counsel, or to protect yourself, you may need to have counsel. We do not understand how this system is actually going to work.

Mr Philip: I am sure that you have had experience with the Ombudsman system, in which the Ombudsman's office, when it was originally established here in Ontario, was set up with a select committee that was to monitor the progress of that to make policy recommendations to the Ombudsman on the running of the office and to generally help to ensure that the office was not only effective but also efficient.

That system seems to have worked, and yet in this system that has been introduced here there is really no independent auditing. A majority of the major decisions are going to be made by regulation, we do not know what they are yet, and there is no real parliamentary control other than perhaps questions in the House, which we have with the human rights commission. It does not seem to be all that effective at the moment.

Should there be an extra monitoring system of this system—at least until we can see whether or not it is working and fine-tune it—either a parliamentary committee that it would have to report to on a regular basis or an independent auditing system to ensure that this very complex system which is being set up in this bill is actually working?

Mr McClellan: It might be helpful. The problem remains, though, that you have a complaints process that is not really independent and you have an employment equity program that appears to lack fundamental accountability. So I do not know how having a select committee attached to this basic structure is going to get anybody very far, because that assumes there is information that can be shared with the select committee.

Mr Philip: Maybe at least the regulations would be shared with that committee, since they cannot be shared with this committee. They have not tabled them.

Mr McClellan: I understand the dilemma, but you are going to have some major problems monitoring the implementation of this statute.

Mr Philip: Particularly the employment equity sections.

Mr McClellan: Because of the structure, both in terms of the employment equity structure and in terms of the complaints procedure.

Mr Philip: Can you see large discrepancies across the province, depending on the way in which this employment equity structure is set up under this bill?

Mr McClellan: Yes. Again, it is not clear to somebody reading the bill without benefit of the kind of discussions that you are going through what the accountability mechanisms are for the employment equity proposal here. It does not look like there is really anybody who is responsible for the establishment of targets, timetables and for monitoring implementation.

One would have thought that an independent agency would have been given the task of setting clear targets, timetables and for monitoring implementation, but that does not appear to be part of the bill. Presumably it will be left to the Solicitor General's department. The Solicitor General's department has had the responsibility for employment equity within the OPP for the last infinite period of time and simply has not done anything. Some of you may disagree.

Mrs Sullivan: Yes, I do.

The Acting Chair: Is this in supplementary to Mr Philip's question?

Mrs Sullivan: Yes, it is to the point that Ross has just made.

Quite specifically in section 41 the chief of police is given the responsibility for implementing the employment equity plan. When you move into section 48, the requirements for the employment equity plan are laid out, including the fact that there have to be specific goals and timetables and the implementation of the positive measures to lead into it. It seems to me that there is indeed a responsibility, a place of origin and a place of direction that is included in the bill.

Later on, I might like to ask some other questions about it.

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Mr McClellan: I have read those sections very carefully, as I am sure you have. I do not understand where the ultimate authority lies for the development of targets. We know already what the OPP has to say about goals. As far as the OPP is concerned, goals are things that we do not have to worry about. We have literature from the OPP that reassures its members that goals are not significant. It is not something you have to worry about. Targets, timetables and implementation require specifics and they require a monitoring and enforcement agency.

That is what appears to be missing, an independent agency that will be responsible for making sure that this program delivers the goods, that the percentage of visible minorities and target group community representatives within the OPP increases from its present 0.98% of the force to something reasonable. Who will set those targets, who will set the timetables and who will ensure that a chief of police who fails to deliver the goods will be subject to sanction? I do not see that there. That may be my fault, that may be my problem, but I do not think it is there.

Mr Sola: I would like to refer to page 7 of your brief where you say, "Without immediate and meaningful action, visible minorities will continue to believe police officers are above the law." I have a little bit of difficulty with the words "will continue." That seems to indicate to me that right now the visible minorities regard police officers as being above the law. I see that as coming in conflict with criticism of the inachievement of employment equity in the police departments.

I think if the community considers the police department as being above the law, first of all, people who are close to the community will have one of two reactions to that. Either they will refuse to be involved with the police out of fear of becoming pariahs in their own communities because of the negative image that the police department paints in their communities, or you will attract specifically the type of people who really do want to consider themselves above the law and would abuse the law if they were incorporated into the police force.

I wonder if you could elaborate on that, because I do not like the implication of that sentence.

Ms Veacock: I think it is fair to say that those members of visible minority communities, particularly my community, the black community, do have this perception that police officers are above the law. This is based on their experiences with police officers in this province.

Mr McClellan: I think we are simply restating the challenge that is in front of this committee in trying to craft a piece of legislation that can solve the problem. Usually the problem is expressed in terms of mistrust or lack of trust. This is simply

another way of stating the problem of perception within significant communities within my home town of Metropolitan Toronto. That is a reality. I am sure you have heard witnesses before this committee testifying to that basic perception that they have.

Mr Sola: What I am getting at is that changing perceptions is a long-term project. A bill is not going to do that. I just have to go back to my own experience. I am from an eastern European community, a Croatian community. I have heard the same sorts of complaint back in the old country, that a certain segment of the population is dominating the police force and is antagonistic towards my native community.

At the same time, when I say: "Why is that the case? Would you have taken a position with the police force?" they say: "Me? My father would have disowned me. I would not have been able to speak in my own community. I would not touch the police force with a 10-foot pole." "In that case," I tell them, "in part you are responsible for your own problems, because if you are complaining that there is another community mistreating yours and you do not want to become part of the solution, you are part of the problem."

I think this sentence here seems to indicate the same sort of problem here in Metropolitan Toronto.

Ms Veacock: I think, if I understand you, what you are saying is, perhaps this perception will deter visible minorities from joining the force. Is that where you are heading?

Mr Sola: That is right, especially the ones who would have a positive approach to the police force, who would be good police officers. You do not want somebody who considers himself above the law saying, "Because my community considers the police above the law, therefore I am going to be one of the abusers of the law." You want somebody who is going to obey the law, enforce the law and be a model for the rest of the community, not a negative model.

Ms Veacock: I think this is why the section on employment equity has to be very clear and very strong. There are two debates: whether visible minorities want to encourage other visible minorities to join police forces, given the perception that they are above the law and that they mistreat the community; and the other aspect, that if you are to have very strong employment equity programs with goals and timetables, a strong enforcement mechanism, that will assist visible minorities to get into the force and create the kind of support system for other visible minorities.

This is why this bill will not achieve its objectives. I think this government has to understand that this perception for people is very widely held in the visible minority community, particularly the black community. An independent civilian complaints body is critical to the success of this bill, where members of visible minorities can take their complaints and see the body as being impartial, and not police continuing to police themselves or investigating themselves. I think that will go a long way towards breaking down that perception and it will filter into other areas of the community joining the force or encouraging that kind of participation and employment.

Mr McClellan: The other problem is that something has to be done to deal with the excessive use of force. This is not something that people are imagining, when young people are being shot in relatively trivial incidents.

BROMLEY ARMSTRONG

The Acting Chair: Our next presenter is Bromley Armstrong, who needs no further introduction to the committee. We have your presentation in front of us, Mr Armstrong. Perhaps you could lead us through it and then entertain some questions.

Mr Armstrong: I will try to go through it as quickly as possible so you will have time for questions.

I am making this submission as a concerned citizen and one who has had more than 40 years of experience in police-community relations. Five of those years were at the Ontario Human Rights Commission, and I had the privilege of travelling across this province as a human rights commissioner through the north, the south, the east and the southwest of Ontario.

I am familiar with all the studies we have had, I would say, over the last 20 years. We have had studies on policing in Ontario, various task forces. We have had Morand, Maloney, Pitman, Cardinal Carter, and a year ago we had a report by former Solicitor General Roy McMurtry on policing in Ontario in the 1980s. With all these task forces and all these reports, we are still where we were almost 20 years ago. The latest task force was former judge Clare Lewis's report with 57 recommendations.

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However, I am concerned with the proposed amendments to Bill 107, which is to amend the Police Act in Ontario. My major concern on this is that we are not dealing with at least minimum standards of training for all the police within the province and the use of firearms. Those two areas are covered by regulations, and I know the regulations are not before you for study at this time. I am urging anyway that the committee recommend that this Bill 107 be passed as soon as it can be and that whatever necessary amendments be made to the regulations be done with due dispatch.

It is a year since the Lewis Race Relations and Policing Task Force report and most of the things have not been put in place. I know there has been some movement on the part of the Solicitor General to do certain things. Some things have been started and it is commendable that we have seen some movement.

In the bill, you are suggesting a special investigative body and that the chairperson of that body be a civilian. I think we need to have all the people on that special investigative unit be civilians, not just the chairperson. It is imperative that we have some kind of semblance of independent investigation.

I am in agreement with the civilian complaints procedures and suggest that the proposal which is province-wide is long overdue. Allegations of misconduct and misbehaviour on the part of police should be subjected to investigation at the outset by civilians and should be taken from the hands of the original investigator for the first 30 days by the police and internal disciplinary action.

Sections 86 through 89 deal with the investigation of complaints. In my opinion, all the complaints should be investigated by an independent force under the complaints commissioner, not by the police themselves. All complaints which warrant it should be sent to a board of inquiry. I am particularly concerned with the section covering disciplinary proceedings for the excessive use of force and equipment. The bill recommends that a special task force—I talked about that before, about shooting

and excessive use of force. I think that group should be all civilian.

Over the years, in my experience, we have had a countless number of abuses by some police officers against blacks, Asians and native people. Since 1978, there have been a number of shootings of blacks and other civilians in Metro Toronto and elsewhere. In December 1979, for example, the chief, who was Chief Adamson, talked in an article about five killings in four months. He told the citizens of Metro Toronto that they can expect more because we are in a violent society and people are more violent. They can expect this to happen more often.

I have no difficulty with the police trying to apprehend someone involved in criminal activities. If it is necessary to use force or firearms, that has to be done, but I should say to you, members of the committee, that I have difficulty accepting the fact that when a black person or other non-white is stopped by police for a traffic violation, it becomes necessary for one, two, three or more officers to approach the individual with guns drawn. I also feel it is unnecessary for the police to take the law into their own hands, as was recently done in Scarborough when a black nurse was stopped for speeding and had her teeth punched out by the police officer who stopped her.

As a human rights commissioner, I recall several complaints from south Asians of differential treatment at the hands of the police. I can recall being at a meeting with the then chief, Jack Ackroyd. I had him document eight cases. They just dismissed them all without even investigating them. "This could not happen. This is what we do. We do not think these things are happening." But these are real times and these things do happen.

In 1976, the police community program established by the Urban Alliance on Race Relations and the Social Planning Council of Metropolitan Toronto—I was part of this process—was applauded by the chairman of the police commission of the day, C. O. Bick. We are now in 1990 in Metro Toronto and we are still having difficulty with the police and the black community.

There have been several incidents over the past 15 years or so of wrongdoing on the part of police officers in Metro Toronto as well as in other parts of the province. In 1984, for example, a police constable was found guilty of inflicting severe bodily harm on a suspect and was given 12 days off without pay. The police created a big uproar at the 12-day discipline.

In 1986, a police officer was charged with placing his gun in the mouth of a suspect. He was later cleared of assaulting the suspect, although saliva was found on the barrel of the gun matching the saliva of the suspect. The judge, in his wisdom, said the saliva could have reached the barrel of the gun by other means.

The most severe case in Metro Toronto, in 1985, was that of a constable who punched and kneed a suspect, rupturing his testicles. He was found guilty before a board of inquiry and asked to resign from the police force. This decision was appealed and the appeal was dismissed. During the appeal the policeman was found guilty of beating this particular suspect, but he was allowed to continue working during the appeal. The accused constable was suspended for the alleged wrongdoing.

If they are suspended, it is on full pay. I think this is something that should be examined in the amendment to the bill. This is something I am quite concerned about, that when a constable does something wrong, we suspend him with full pay. When a worker is disciplined or dismissed for some infraction, he does not get full pay before that goes before an arbitrator, so

I do not see why we should be giving the police special treatment.

I think they should be put on a special job and be paid, because I feel we are rewarding the wrongdoers. The good police are doing a decent job and have to work for their living, while the guys who create the problem are rewarded. They can go and sun themselves in the tropics someplace for up to two or three years before their cases come before a tribunal, and they are getting full pay.

I think that is something you may want to look at. I am a firm believer of innocence until guilt is proven, but I also believe when someone is accused of a wrongdoing, if he is to be suspended from his regular job, he should at least be placed in a temporary position if he is going to receive full pay. I have talked about that before, so I will skip over to page 7.

There are many instances reported when police constables have been less than candid with the courts and with situations they have been involved in. For example, four police constables were jailed in 1986 for covering up a beating they administered to a student. In their defence they were quite concerned when the judge was about to sentence them to a term. Mr Justice Craig called the assault a despicable, vicious and cowardly use of force. One of these constables got 18 months, one got three years and the other two got 12 months each.

Also in 1986, Judge Crossland said the evidence of two constables was an outright lie as he dismissed the charge of assault against a suspect.

I have cited these examples to show the need for a civilian complaint system to give citizens a chance to go to a body and report abuses that are out of hand, from time to time, by some police officers. In 1976, for example, while I was a commissioner, a black Canadian wrote to the Ontario Human Rights Commission asking for its assistance because he said that for some years he had been subjected to harassment. He was also beaten by police officers in Metropolitan Toronto. He sustained injuries and was hospitalized. Later, he had to appear in court for obstructing justice and received 30 days in jail. In many of these cases, the victims are powerless and without the proper resources to be able to take their cases before the courts.

I urge you, the members of this committee, to recommend to the House that the amendment to Bill 107 be passed with due dispatch so the people of Ontario who have been calling for changes for years will feel that finally the government of Ontario has listened. I urge that upon the completion of the passing of this bill, the regulations dealing with education, recruiting and the use of force and firearms be updated and also receive urgent attention, with a view to having these become a vital part of the bill as soon as possible. I thank you for having me to make this presentation.

1700

Mr Philip: On page 5 you talk as a human rights commissioner about several complaints from the south Asian community of differential treatment at the hands of the police and that in many cases they were not investigated and ignored. Do I take it that it was the police complaints board that did not follow up on this, or was it the Ontario Human Rights Commission?

Mr Armstrong: The commission followed up on it. My job was liaison with police community, and in my travels across the province I met a number of chiefs and superintendents. I built up very good relationships with police departments across this province.

In these cases I am citing we had, for example, a very religious leader of the south Asian community being held down by a group of young hoodlums who forced him to drink. They held him down on the ground and put a bottle of whisky in his mouth, and he almost gagged on this. Then they pushed a cigarette in his mouth. That is an example. There were other attacks by young boys and things like this, and I would take it to the police and we would have meetings with the people who would document these things, and in every instance they would say, "Yes, we looked at this; nothing there." They just dismissed them.

Mr Philip: I guess when you give examples like that, we think of perhaps some of the even worse or more extreme examples of child abuse where complaints were made and children were in institutions for several years being sexually abused and there was inadequate police investigation to find the offending adults.

One of the proposed solutions is that we should have an independent audit system initiated, and that was the recommendation of the Canadian Civil Liberties Association. I wonder if you feel if that would be of assistance in those instances where you feel that the police have not been fulfilling their responsibility in doing adequate investigation of complaints into serious allegations.

Mr Armstrong: I have some difficulty, because I do not know what you are going to audit. To me, if I call an auditor to audit my books, he is going to audit some figures I give him. If there is nothing there to see, what do you audit?

Mr Philip: The audit, of course, is more comprehensive than that, because an audit would examine the police records, the records of investigation, to find out whether there was an adequate investigation.

Mr Armstrong: But suppose there were no complaints registered? How do you audit that? This is what you have. There is no official document file of an incident, so there is nothing to audit. I can cite you 200 cases in my own community. I can cite you 200 cases in the north, when I was a human rights commissioner, with the native people. In various parts of the north there is nothing on the books to see anything like this.

Mr Philip: But surely if you have a record of the Ontario Human Rights Commission reporting an incident to the police, then you have got at least its record of the report being done.

Mr Armstrong: If the human rights commission will do this; because I hate to remind you, Albert Johnson was killed in 1979 and an officer for the human rights commission reported 11 incidents of harassment by the Metro police on that particular case. Nothing happened. If the auditor is going to audit to say, "Well there are X number of incidents on a particular thing," we can follow from this.

To the last point was a letter from the human rights commission to the police chief saying that it had had so many complaints on this particular thing, and what happened? That man's life was snuffed out.

The officer in question had a nervous breakdown when she found out that that man was killed. She was on her holidays, and when she came back—she left on a Thursday. Johnson was in court on Thursday, brought her a bouquet of flowers to say, "We appreciate all the work" she did for him. She had a file for every incident reported. She went on her holidays, came back three weeks later and found out that Johnson was dead and she

just had a nervous breakdown. She could not operate again; she had to quit that job. She did. In her mind, it was a useless exercise, because she was telling her boss this was happening and nobody took her seriously.

Mr Philip: Well, I would hope that an independent audit would have caught that, because obviously in that instance there would have been records of—

Mr Armstrong: My problem with an independent audit is that I have no objection to whatever little we can do to make things better, but you first must educate people to go to someplace to complain, or you must have organizations someplace. Something in my presentation that I put in that I did not speak out on is that I would like to see that individuals or organizations should be able to file a complaint. I would much prefer you to do this and be able to carry that complaint, because you can have a strong organization, for example the Jamaican Canadian Association or the Trinidad and Tobago Association of Ontario, that could monitor what goes on in a particular community. So it is an organization that would come on behalf of a complainant and say: "Look, you're not capable of doing it. We will do it on your behalf. We will make sure that something is on the records." Then you will have something to audit.

Mr Philip: One of the suggestions is that, were the police complaints commissioner to have the power to initiate investigations on his own initiative, there would be a way of dealing with a complaint from the Jamaican Canadian Association or some other complaint, that the complaint could come from any source and could say, "There seems to be a pattern here and we think you should investigate." I am sure that you are aware, as a member of the human rights commission, that the human rights commission has that power, the Ombudsman has that power, yet under this bill that power is not given to the complaints commissioner. Would that help in dealing with some of the kinds of things that you are talking about, where a group of people notice a problem and would like an independent inquiry into that problem?

Mr Armstrong: I would like to see the public complaints commissioner given that power, because what happens now under the present system in Metro Toronto is that we can refer a complainant, and even initiate the complaint, but you will not know what happens to that complaint because you will not be notified by the complaints department as to where the complaint is.

Mr Philip: One of the major complaints I get about the human rights commission is the time it takes for a complaint to be dealt with, that people eventually give up and go away.

Mr Armstrong: I wish you had not asked me that at all, Mr Philip. I am a former commissioner.

Mr Philip: Do you feel that this bill deals with the problem of the length of time that people eventually get fed up and go away? I know there are time frames in which complaints have to be raised and responded to.

Mr Armstrong: At least the way you have it now, if the police chief steps in, you have the police investigating for the first 30 days and then they can be internally disciplined and then the complaints commissioner may pick it up and start and it goes into his hands. There are some time limits.

I should say this to you: It is not Utopia. Even the present system we have, despite the outcry you hear from the police department in Metro Toronto about what a grave monster we

have on our hands, we have six years of experience and I would just like to give you some statistics. You have about 750 complaints annually, which to my arithmetic totals about 4,500 complaints in six years, up to 4,500 complaints in six years. We have had disciplinary action in only 20 cases. That is the monster that we are living with.

For somebody like me who has been involved over the years, those figures to me are a nothing. This complete system we have is nothing, but it is better than nothing at all. At least it gives us a chance to go to an agency where we can put this on the record.

That is what you have had, and the most severe penalty we have had in six years is one dismissal. The second highest penalty was 12 days off without pay, and then it comes all the way down. So that is what you have.

I should say this to you, that 20 disciplinary actions is 25% of the cases that have gone before it. In other words, there have been about 80 boards of inquiry in six years. I do not know what the figures are for the seventh year. I have not seen those figures as yet because I have not seen the report.

Look at it: 4,500 complaints and you have had 80 boards. It is similar to the human rights commission, which receives 2,000 cases per year and you do not have more than 25 boards of inquiry in any one year. You settle about 65% of the complaints, but there are less than 25 boards.

1710

I think this government, and you, as an opposition person, should look at that. It is a redundant system we are under. When it started in 1962 as the Human Rights Code, it was good for that day, but for 1990 it is redundant. It is time to rethink the Human Rights Code. It is time to rethink the whole system.

I am not pushing at this time for a revised civilian complaints commission, because I am balancing this out with what the police themselves are saying and I do not expect us to start hitting the police over the head with a big sledgehammer. You can do it gradually, starting off with a little at a time, and we will get there. At least we can see from the statistics, and we can keep quoting this, but to me, and I am speaking for myself only, it is not an adequate system, but it is better than nothing.

The Acting Chair: Of those 405 complaints, 20 of which were dealt with, do you see any racial bias in that 20; that is to say, in the 385 that did not reach a disciplinary action?

Mr Armstrong: Of the people who complain to the public complaints commission in Metro Toronto, very few non-white people are doing this—very few. I would go out on a limb and tell you that is less than 50%.

The Acting Chair: Yes, so we are talking mainly about white people complaining and not having any discipline occur.

Mr Armstrong: That is right.

The Acting Chair: So the problem then is systemic in the whole disciplinary hearing process; it is not necessarily racially motivated.

Mr Armstrong: If blacks and other non-whites were to go and make complaints before the complaints commissioner, it would double the number of complaints there, but people feel it is useless. It is like the commission. A lot of people do not go to it because of the length of time, because of the system. It takes three to four years to do it. The complaints system does not take that long, but they still feel you are knocking your head against

a wall, so most people do not go there. We have to urge and beg and beseech them to go to make a complaint.

The Acting Chair: Part of this is that protection of the police force, though, is it not? It is a sense of protection that occurs.

Some of your examples raised examples in my practice to me, but not necessarily racially motivated, and you are suggesting it is all racially motivated.

I can think of a situation where a man had his hair pulled out of his head by police officers and was thrown out of the police station, called a lawyer, the lawyer arrived, saw him sitting on the front steps of the police station with his hair in his hand, bleeding profusely. There was no defence offered to that by the police, but a provincial court judge dismissed the charge and was prepared to give no reason until I insisted, and then he said: "No, he obviously pulled his own hair out. These people do that all the time." That was a white man, but obviously this judge was very anxious to defend the police officers.

Mr Philip: Did you ask him to demonstrate on his own head?

Mr Armstrong: I will give you a quick example. You are completely right. What happened, the police closed ranks, and not only the police closed ranks but the judiciary closed ranks, because they have to work with the police.

There was a confrontation where a police car pulled over a man with a Detroit licence plate. I do not think the people in the car were upstanding citizens. However, a man upstairs in his bedroom heard the policeman berating them and saying, "Go back to nigger town, this is not nigger town." There was a policewoman in that car. The police constable on the scene and that policewoman lied. She could not live with her conscience, so she quit the force. She found religion and after 18 months came forward and told the truth and that police constable was found guilty of improper conduct. That is the kind of thing you get.

What happens when a constable does this? They are ostracized by their colleagues to the point that they have to get out of the force. Recently there was a police constable who came forth and talked about that, those four guys who went to jail. It is a police constable who really came and whistled on them, but he had to quit, because they closed ranks.

What I am saying to you is this, that if the police were to weed from within their ranks the wrongdoers and not condone this thing, we would have a lot better force and we would have better communication and better understanding with the community at large, but they do not do this. We condone the wrongdoers and we reward them. When the discipline action comes, we suspend them with pay, and these guys just laugh at the system. "I can go to Florida and spend a year because the case will not come up for a year." Then if he is found guilty, he thumbs his nose and says, "Ha ha, I got a year's pay for nothing." That is the system.

The Acting Chair: I see that problem too. I think the committee is going to have to look at that carefully. I appreciate your presentation. It has been very helpful and your experience is infinitely helpful to this committee. Thank you very much.

COALITION OF BLACK LAW STUDENTS

The Acting Chair: The next presenters are the black law students' association. Karen Wishart is the presenter. Her submission is being distributed at the moment. Ms Wishart, perhaps you could make yourself comfortable, lead us through

your submission and then be prepared to entertain some questions. We have about half an hour.

Mr Philip: You would not like a practice in an MPP's riding office, would you? I am always looking for volunteers with a law degree. I wish I could get a legal student to volunteer.

Ms Wishart: Perhaps I should begin by telling you a bit about the group that I belong to. We are black law students. We got together initially to help each other through the articling process, the law school process, but we have been concerned about recent incidents in Toronto and we felt it was our moral duty as well as an obligation to ourselves to make a representation to the committee today.

We started out by looking at the 1989 Race Relations and Policing Task Force. We looked at that and we looked at the recommendations and we thought they had some extremely good recommendations. We looked at the current bill and we found that there was a gap between the area that the bill was covering and the recommendations that were made. I think we are all aware of the racial tensions and the general tensions between black and white communities and the police force. We make this submission in hopes that some of the amendments we propose can be incorporated into the bill and can bridge that gap.

We felt that under the declaration of principles, another principle should be added: that the providers of police services should be accountable to the communities they serve.

Under part I, the responsibility for police services, we feel very strongly that the police college should not be under the auspices of the Solicitor General but that it should be under the Minister of Education. If we look at law as one profession, although we have the law society, while we are at law school, we are under the Minister of Education. We do not feel that the Solicitor General should not have any input as to the courses or the nature of the college, but we believe that the primary responsibility should be with the Minister of Education.

We believe that the police college should be integrated physically within the community college system. By that we mean that within a community college campus, you would have a specific area for the police college. As we have said later, we believe there should be mandatory courses in race relations, psychology and sociology and that these should be taken with other students at the community college so that, at that level, while they are being indoctrinated, for lack of a better word, with a police philosophy and the philosophy of their office-to-be, they can still be relating and interacting with the community.

In part II, which considers the Ontario Civilian Commission on Police Services, we felt that subsection 21(2) should be amended to include a provision that the members who are on this commission are independent of the Solicitor General. We felt that it should be further amended that at least half of the members of the commission should be visible minorities. I recognize that the population of visible minorities of Toronto or Ontario has not reached 50% yet, but I believe the statistics indicate that by the year 2000 or 2010, visible minorities will comprise 50% of the Toronto population, but perhaps not so outside Toronto.

1720

The reason we are suggesting that 50% be visible minorities is that if we look at the issues involving the communities and the police force, the vast majority of them do involve visible

minorities. Visible minorities right now believe that they do not have a place and they do not have proper access to that commission board. As it is right now, I recognize that we have Susan Eng and Roy Williams on the commission. However they are two votes, and when you have nine commissioners, a lot of times their votes do not mean anything.

We suggest that subsection 21(5) should be amended that the quorum be two thirds of the appointed members, as opposed to two. As you can appreciate, if you have a board of nine members and two people comprise a quorum, with the powers the commission does have, we feel that is unfair and that there should be a majority there to make these kinds of decisions.

We suggest that subsection 21(6) should be amended that notice of the meetings of the commission should be in a prescribed manner and not merely up to the commission itself. We suggest that the regulations incorporate a prescribed manner and that it should include the following: the date, time and location of the meeting, the subject matter to be discussed and whether the meeting is open or closed.

We have a fundamental problem with section 21 and the ability of the commission to direct that a meeting is closed, and the public having no recourse to that. We believe the commission is there to serve the public and it is not good enough that a commission can just say that a meeting is closed and not give any reasons. Notice of a meeting, whether it is open or closed, should be given to the public, and if it is closed, the commission should include reasons why the meeting is being deemed to be closed. We feel any member of the public who wishes to dispute this decision should have recourse to an independent third party, and the ruling of that independent third party would be binding on both the commission and the person who initiates the challenge.

Under section 22 of the act, we believe it should be amended so that the commission has powers to act on its own and not on the direction of the Solicitor General. If they have reasonable and probable grounds to believe that a municipal police force or a board is not complying with the prescribed standards, they should have a discretion to institute those powers outlined in section 22. We also believe the same thing should apply if they have reasonable and probable grounds to believe that the municipal chief of police is not complying with the employment equity provisions.

Under part III of the act, the municipal police services boards, we believe that section 27 should be amended so that the municipal police services boards are under the local regions or municipalities. It should be further amended to include a provision that the board should be composed of members who are independent of the Solicitor General and, further, that the local region or municipality shall make reasonable efforts to ensure that there is adequate representation of visible minorities on the board. We did not want to set a percentage or a number at this point, because we realize that different communities are composed of varying amounts of visible and ethnic minorities.

Subsection 31(1) should be amended—and this sort of relates to something I will get into later, the civilian complaints bureau—so that the board, rather than the Solicitor General, should establish the guidelines for the administration of this board. The same provisions for notice of all meetings, including those which are directed closed, should be in a prescribed manner and that prescribed manner should be similar, to include the date, time, location, subject matter and whether the meeting is open or closed. Again, we believe that if a meeting has been deemed to be closed, a member of the public should have recourse to an independent third body.

On part IV, police officers and other police staff, we believe very strongly that a police officer's salary and rank should be commensurate with his or her experience and education. I think in almost every other profession—and the example I can think of most readily is our nurses—they are at a different entry level if they have a BA or BSc. We think the section should be further amended to include a provision that the Solicitor General should establish an incentive program to encourage members of the police force to further their education, and that can be something as simple as paying for their tuition and working around the school schedule, to, I guess, selecting certain members of the police force who they believe would be strong candidates in higher levels of the force and paying their salaries while they attend school.

We believe that the minimum age for the appointment of a police officer should be 21, as opposed to 18. We believe that section 43 should be further amended so that there is a mandatory six-month placement with a community group or organization, which through the promotion of this group's objectives will assist the applicant in further developing racial tolerance and understanding.

Under the public complaints, we believe there should be a civilian complaints bureau. This should be administered by the Attorney General, as opposed to the Solicitor General. We have quite strong feelings about that, because the Solicitor General, right now, is in charge of the police and we think it is a conflict of interest to have the same person in charge of a board which is taking complaints from, for lack of a better word, victims and the people who have initiated the, for lack of a better word, problem against those victims.

We believe that the Attorney General should appoint an independent commissioner who will oversee all the activities of this bureau, and that this commissioner should have the powers of a peace officer. The bureau shall be responsible to investigate all complaints made by civilians against a member or members of a police force, and these complaints should be classified as alleging criminal conduct, professional misconduct or both.

We believe that all allegations of criminal conduct should be investigated by the commissioner, and if the commissioner deems it appropriate, prosecuted in the criminal court system. For those complaints alleging professional misconduct, they shall be investigated by the commissioner, and if the commissioner deems it appropriate, resolved by the chief of police.

We believe that there should be a separate adjudicative body which is independent of the commissioner to resolve issues which arise from civilian complaints and that this body should have the sole discretion and authority to impose penalties.

These last two recommendations do not relate to the bill as it is, but we feel that they are important enough that we should bring them up today. The first one is that each member of the police force shall complete a mandatory report each time he or she removes his or her firearm from its holster, points or discharges it, the chief of police shall maintain records on the number of times a firearm is removed, pointed or discharged and a monthly report incorporating the records of the chief of police shall be filed with the Ontario Civilian Commission on Police Services monthly.

The Acting Chair: Thank you very much. I have a number of people who want to ask questions: Mr Campbell, Mr Kanter, Mrs Sullivan, Mr Sola.

Mr Campbell: I want to explore why you feel the police college should be integrated into the community college system.

Ms Wishart: Because I think right now there is a very distinct us-and-them attitude with both the police and the community. In order to bridge that gap, if we can at least have them interacting together as they progress through their education, that may go a small way. That is the first part.

The second part of it is, with respect directly to police officers, if we can increase the number of times before they become a police officer that they have to interact with visible minorities and members of different ethnic groups, then that may increase their tolerance and awareness.

1730

Mr Campbell: I felt that was your reasoning, but in all practicality, with most police forces in Ontario, the standards have risen so that you have a community college degree already before you go into policing, at least where I come from and in other parts of Ontario. It is not the old grade 10 or grade 12 and then go into the police force. There are a lot higher standards. Again, I am not from Metropolitan Toronto, and that may not be the case here. My understanding of those law and security programs at community colleges is that they include exactly what you were saying, but I do sense that interaction is a very important part of it.

Ms Wishart: We are concerned about the standards of education, but what we are getting at is that while in the process of becoming a police officer they continue that interaction with the community, because I think with a lot of police officers their friends are their colleagues, and they do not really go outside that circle of police officers as friends and colleagues. While they are going through that process—because I think most people, while they are in a community college or university atmosphere, do develop friendships at that time—we would just hope that there could be more interaction.

Mr Campbell: I would hope you are right. It is an admirable goal, but I think there are other professions or other groups of people, like teachers and sometimes politicians, who perhaps interact in the same way you are aiming for. They do tend to stick together, I guess. I do not know if it is a perceived threat or a bunker mentality or a fortress kind of thing, but I know other groups that this complaint is made of and it is a very good observation. I thank you for your presentation.

Mr Philip: Thank you for an interesting presentation. I certainly agree with the majority of your recommendations.

Recommendation 2 concerning education: Would you agree with me that it would be easier to implement an employment equity program if the community colleges were doing the police training, since community colleges have a history of being able to develop programs to help people who come from different countries to recognize some of the credits or experiences they have and then build on them to get certification in fields like nursing, nursing assistants, various types of technicians, etc? Therefore, this would be a natural extension, to take that police officer who has emigrated from Guyana or Jamaica and say, "Fine, there are a few extra things that we need here and then we will give you a certificate as being qualified to be an Ontario police officer."

Ms Wishart: I think definitely so.

Mr Philip: The same thing, of course, is done by the universities, is it not, with regard to your own profession?

Ms Wishart: Yes.

Mr Philip: With regard to recommendation 11, you say the local municipalities should make all reasonable efforts to ensure that there are adequate representations of visible minorities on the board. Do I take it then that you would like the board to be appointed locally rather than by the province, or that you are simply suggesting that the municipality recommend to the government suitable candidates from which the government would choose?

Ms Wishart: I think on that point we could go either way. What I would like to see is the municipality having more input than it is perceived as having at the present time.

Mr Philip: With regard to recommendation 21(d), I am not a lawyer, so help me out with that. That basically, in layman's language, would mean that the commissioner would also have the power of a police officer to lay charges. Is that what it is saying?

Ms Wishart: Yes.

Mr Philip: I have some problems with all the various tribunals. I see Niki Carlan over there and she will know that we have gone through this in other circumstances. I think it is very important that someone who is doing an investigation not also be the judge. I wonder if you feel there should be some way of at least dividing that within the present legislation or the proposed legislation to ensure that the person who is going to lay the charges is not also the one who has an influence on the eventual decision, in order that there be fairness to both sides.

Ms Wishart: Perhaps we could have a provision where after the commissioner has done his or her investigation and lays charges, the issue is then carried to the adjudicative body, and we have stated in there that it should be independent of a commissioner, and then at that point the commissioner would step back and not have any further interaction with that issue.

Mr Philip: I suggested under the human rights commission that all you had to do was have two different departments, one an investigatory arm and the other an adjudicative arm, and as long as you kept them at arm's length you would have a system that would seem to work, as long as you are very clear that they are distinct. You may even want to physically locate them in different areas or on different floors or have some way of distinguishing them. But I can see what you are suggesting and I accept that.

Under the present police complaints system that is now operating, I gather what you are saying in all of your recommendations is that basically we are perpetuating provincially all the faults of the present Metro Toronto police complaints system. Is that what you are saying?

Ms Wishart: I am sorry. I did not hear.

Mr Philip: The present Metro police complaints system has a number of faults, such as that the initial investigation is not done by an independent person but rather by the police themselves. There is no right, as you suggested and as Mr Armstrong before you suggested, for the complaints commissioner to go on an investigation on his own initiative, as the human rights commissioner has or as the Ombudsman has under his act or as the Provincial Auditor has under his act. There is no real independent reporting system. It is even to the

point where the person accused—I understand there is an amendment coming on this—namely, the police officer, is informed while the investigation is still under way. Nobody else gets that kind of advantage.

Those are all faults in the present Metro police complaints system, and yet would you not agree that those same faults are being carried over province-wide so that we are simply expanding and multiplying the problems that now exist in Metropolitan Toronto to the rest of the province?

Ms Wishart: We felt there were some improvements in this bill with regards to public complaints. The one that jumps to my mind is the time frames. Now we have some defined time frames. Theoretically, if we follow through the process of the act, we can get these complaints in, investigated and dealt with. However, you are correct in saying that we are perpetuating the same faults that we found in Toronto and I think we all agree that what we have now is not working.

Mr Philip: I have just one last comment. Time frames are only valuable if there is a penalty when the time frame is not followed. I suggest in the case of the Ombudsman that if a time frame is not followed it be a presumption of guilt and therefore the complainant receive an affirmative award. All you would need would be five or six of those and those time frames would be adhered to. Overnight there would be a miracle in cutting through the bureaucracy that the Ombudsman in this province has suffered under for years and years and years. It is just an idea. I see that the former director from the Ombudsman's office is smiling and wishes she had had that kind of rule on her side.

1740

Mr Kanter: I also appreciated your brief and the fact that your brief stuck quite closely to the arrangement of the subject matters covered by the act. That suggests the major question I have. You refer to the fact that the bill does not follow precisely and entirely the recommendations of the Lewis task force. You may not know that we had Mr Lewis here as one of the first deputants before the committee. He indicated he felt it went a long way and was very much in the spirit of his report.

Given the fact that the bill does deal with employment equity and tries to clarify the roles of the Ontario commission and the municipal commission and the responsibilities of police chiefs and police officers; given that it expands the public complaint system beyond Metropolitan Toronto and does include the time limits that you referred to as an improvement; given that it has a special investigations unit for serious offences that are initiated by a civilian; given that that it does not require anyone to launch a complaint at all, would you not feel that the bill in itself is a positive step while you would like, of course, to have many other positive steps in addition to it?

Ms Wishart: I did not mean to create the impression that we felt the bill does not do anything, because the bill does a lot. We just feel that there is a lot more that it could do.

Mr Kanter: I very much appreciate that clarification. Would it be your position then that this bill is a positive step which should be complemented by a number of other positive steps? Is that essentially your position?

Ms Wishart: Are you saying, should we accept this bill as is and then go on from there?

Mr Kanter: Obviously you would want to make changes as quickly as possible. I guess I am saying, is this bill a positive step? Would you rather have this bill than not have this bill?

Ms Wishart: That is a catch-22 question. I think I would rather have this bill. However, I would rather have a better bill.

Mr Kanter: No, quite naturally. I appreciate it and I think many of your suggestions are very positive ones; for example, you are not the only deputant who spoke about better integration of police training in community colleges. It is just that this is the kind of suggestion which I find very attractive. I have a sense that other members of the committee may have found it very attractive. It may be something that is a medium-term or a longer-term goal, that there would be some practical problems if we passed something in the legislation saying the police college should be abolished tomorrow. There might be some very practical difficulties in training police over the next year or so while we got community colleges geared up.

I certainly appreciate your answer. You are saying this would be a positive step. You would like to see it improved and I understand.

Ms Wishart: A comment in response to your comment: We can have in the bill that the police college is abolished, but we can also have in the bill a time frame for when that is going to occur, or withhold royal assent on that particular section.

Mr Sola: Mr Campbell asked one of my questions, but I would like to focus on page 3, where you comment that any member of the public who wishes to challenge the decision may do so. Do you have any time constraints on that? I am afraid, if we get into that aspect of it, you could just delay the meeting of the commission?

Ms Wishart: I think we can have a provision where a challenge must be brought within 24 hours of notice being published and that a decision from this independent third body, whatever it may be, has to be within—I do not know, maybe 10 hours of receiving the challenge. I think we can do it very quickly. But it is important, imperative that members of the public feel that at least they have the opportunity to say: "Wait a minute. Why are you meeting behind closed doors and what are you meeting about?"

For instance, let's take the last shooting. If the commissioners were meeting to discuss this shooting, then members of the public may feel that they should be there, that they have something to say, that they want to know what is being discussed and it is not enough that because the commission believes it is a sensitive issue that the public should not be invited.

All we are really saying is that there should be a means to challenge a decision for a closed meeting.

Mr Sola: Would you have any appeal if the person who challenged the decision did not agree with the board's decision?

Ms Wishart: The third party decisions?

Mr Sola: Yes, the third party.

Ms Wishart: No, I would say that should be binding on both parties, because if you have an appeal from that it could go on ad infinitum.

Mr Sola: On page 5 you say section 43 should be amended so that the officer's rank and salary should be commensurate with experience and education. I think that is an excellent point, but how would you apply it to the fast-tracking proposal of the

Lewis task force to fast-track visible minorities into the upper echelons of the police force? He suggested that they could jump to the head of the line without having the experience that maybe present officers have.

Ms Wishart: I see that as being a short-term solution to a lack of visible minorities and ethnics on the police force. I think this is more long term. I do not really have a problem with doing both simultaneously. I think we are covering two issues here. First, we need a greater diversity on our police force, and second, we need members of the police force who have the power. The powers that be should have a greater variety of experience and educational background. So I do not have a problem with doing both of them at the same time.

Mr Sola: Do you not see a sort of conflict here? Would you have to have two different ranks, one for the fast-tracking and one for the education and experience factor? If it is fast-tracking, would they have a lesser salary or what? I think we are coming to a contradiction where we would not be able to apply either one or the other.

Ms Wishart: I think we could institute that where they would have a lesser salary. This is to reward the police officers for going to school and getting that degree. As I said, the fast-tracking I believe is short term, or I would hope it is a short-term solution and it is not going to be with us all the time.

Mr Sola: I am just afraid it may set a precedent. If you have a two-level type of—I do not know how to really phrase it, but a two-level promotional system that it could become habit forming and that the visible minorities might just continue on in that despite the long-term effect of what you are suggesting.

Ms Wishart: I think if stipulations are made on the fast-tracking until X percentage is present within the police force, then at that point we will no longer fast-track people in there and we will go by this system.

Mr Sola: The only problem is that the percentage of the population keeps changing as well. As you set these percentages in the police force to reflect the general population, by the time you achieve that in the police force the general population may be changed again. You would always be behind the times.

Ms Wishart: I can appreciate the dilemma you have, but my view is that it would not be that great a problem. I think that if we could incorporate other areas where we are getting a larger selection of people from community colleges, we would have a greater number of visible minorities who are educationally qualified to go through this regular stream. I think the end goal is that we will have equal representation or proportionate representation of people going through this type of promotional thing.

Mr Sola: I would like to congratulate you. It was an excellent brief and well thought out.

The Acting Chair: Thank you for the effort you people have put into this presentation. It is very helpful, especially the way you have set it out, so we can correlate it with our own work. We appreciate it very much.

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COUNCIL ON RACE RELATIONS AND POLICING

The Acting Chair: The final presentation is a presentation from the Council on Race Relations and Policing. Your submission

is being distributed right now. Perhaps you could identify yourselves and then lead us through it.

Mr Fuller: I am Karl Fuller, chairman of the Council on Race Relations and Policing.

Ms DePeza: I am Joan DePeza, acting executive director of the council.

Ms Carlan: I am Niki Carlan. I am a member-at-large of the council and I was the chairman of the subcommittee of the council that drafted part of the presentation.

Mr Fuller: I want to thank you for the opportunity to make a presentation on behalf of the council. I just want to walk the committee through the presentation.

We started with a history of the council so that you may have an understanding of exactly who we are. The council is a partnership between the Metropolitan Toronto Police Force and representatives of government institutions. Of course there are a number of community agencies and individuals on the council, and by and large they are all persons who are interested in the pursuit of issues around race relations and policing. The organization was originally established in 1976 as the Metropolitan Toronto committee on race relations and policing and the liaison group on law enforcement, but over time the purpose, mandate and structure of the organization was reviewed to better respond to the changing needs.

Generally, the mandate is to bring together in a partnership the Metropolitan Toronto Police Force and representatives of agencies and other individuals having experience in race relations. We develop a number of programs and strategies on race relations and policing, and we provide advisory assistance as requested by any of the committees or usually the police force.

In total there are 34 members on the council, representing the Metro police force, a number of government institutions and community agencies. Let me just hasten to explain that because of the composition and the inclusion of members of the Metropolitan Toronto Police Force, the issues raised in this brief are not fully supported by some members of the police. I would like to make that clear, that it is not a document that has their total endorsement, but it reflects the views of the council in general.

Looking at Bill 107, there are some general comments we would like to put before you.

The government's decision to speed the passage of the Police Services Act is recognition that there are problems within the community. It is our hope that the need for an expedited process will not diminish the quality of the amendments.

It is our view too that improvements will only occur when the composition of the police force reflects the composition of the community it serves. We know today that people of non-European background make up 17% of the taxpaying population in Toronto. We also know that only 4.3% of the most visible members of the public are within the police force, and those are the non-European segments.

In light of these figures, it is perfectly understandable that non-Europeans feel separated and alienated from the police force. These numbers establish that we have not been permitted to fully participate in the police force that is meant to serve the minority as well as the larger community.

It is also understandable that the force, which is predominantly made up of white men, is also feeling separated and alienated from the changing community it is being asked to serve. White police officers are being asked more and more, as

this city changes, to service people whose customs and cultures are unknown to them, and dealing with the unknown, we suggest, must create concerns.

Some solutions that we present to these problems must, in part, be an active effort to integrate the police force. For a number of years now, the city of Toronto has been attempting to achieve a force which is reflective of the gender and race of its community. It has not succeeded. The numbers for 1989 indicate that 24 visible minorities, 59 women and 189 white men were hired.

The time has come to take legislative action to see these goals realized. It is our view that the members of the task force were right and eminently reasonable when they set deadlines for the integration of the force, and 1996, we think, is not too soon. This position is augmented by the actual figures in the Metro Toronto force's 1989 report on its employment equity initiatives. For 1990, the stated hiring target for visible minorities is 67, or 18% of the total hirings. At this rate, no matter how it is calculated, it will take an absolute minimum of 12 years to achieve proportional representation, and more realistically, 15 to 16 years. This will not allow employment equity to be a reality before the year 2005. We do not believe that anyone in Metro accepts this as satisfactory.

It is therefore our recommendation that a deadline for full integration be included in the legislation.

There must also be meaningful sanctions for those forces which do not achieve the goals. We do not believe that the sanctions which are incorporated in the bill will be used. We do not believe that the Solicitor General will in fact dismiss the chief of a force which has not met the employment equity target. We therefore urge the adoption of sanctions, because we believe in sanctions that can be enforced and will in fact be enforced.

We have heard that integration has not been achieved in part because there have been limited numbers of applicants from minority communities. We believe this may not in fact be the case. We find it hard to believe that it is possible to hire about 40% of parking control officers from the female and minority communities while it is not possible to attract a significant or equal number of similar applicants for jobs of higher status and significantly higher pay on the police force.

We do accept that to accomplish the goal of a racially diverse force it becomes imperative to spend more resources on the recruiting of staff. While we also share the concerns raised by various committee members about additional and unbudgeted expenditures of funds, it is our firm belief that in the city of Toronto, where in 1989 the force had a budget of over \$450 million, it is possible to reallocate some of the existing funds.

We also believe that the force has to move into the 1990s by recognizing that there are special and useful skills that can be developed outside the force to assist the force in carrying out its mandate. We have to allow, either by regulation or statute, for lateral entries. People who have acquired skills in other employment sectors or in other countries should be encouraged to share those skills. The force must accept those people to join at an appropriate rank.

By the way, this approach has been used by the armed forces for a number of years to encourage people with special educational accomplishments, such as a law degree, to join the forces. We must allow, for example, women with proven skills and expertise as human resource specialists to enter the force at an appropriate rank. Clearly, their skills will be invaluable in the recruiting that needs to be done. In the same vein, in-

dividuals with teaching skills who come to the force can only help to upgrade the quality and content of the training programs. We must also allow a police captain or sergeant from another country to enter our force at a rank comparable with his previous experience.

Our final comment with respect to employment equity concerns the composition of the local boards of commissioners of police. These boards must reflect the racial diversity and gender of the community. We believe that application of the principle of employment equity for the board of commissioners should be a statutory requirement.

One of our other concerns centres on accountability. It is our position that it is not clear from the proposed legislation or past practices that the chief of police has been fully accountable for the actions of the force. There need to be specific reporting guidelines set down in the legislation for the chief with respect to employment equity activities, as well as for other initiatives by the force. The force must be accountable to the community it serves, just like a corporation is to its shareholders. That means specific and detailed reports.

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The board of commissioners must also have clear authority to sanction the chief if the actions of members of the force are not acceptable. This accountability includes the need for specific sanctions against any officer who in any way communicates or acts in a racially intolerant manner. We recommend that such actions be incorporated into the list of specified areas of misconduct in section 56 of the bill and would accordingly attract the appropriate disciplinary consequences.

This then leads to our last and strongly held conviction that the use of force by the police force must be monitored. We strongly endorse the need for reports to be filled out by police officers when guns are drawn. We do not accept that a police officer who believed it was necessary to draw a weapon in the performance of his duty or to protect himself would have reservations about reporting this action. Making the public aware of this requirement will, we believe, go some way in restoring and improving the faith of citizens in our police forces.

We want to thank you for the opportunity to present.

The Acting Chair: Thank you for your presentation. It has been very helpful and very valuable. Are there any questions or comments?

Mr Sola: I would like to focus on two things. On page 2 you say, "These numbers establish that we have not been permitted to fully participate in the police force." That is when you are comparing the 17% of the non-European people making up the population of Toronto to the 4.3% in the police force.

I am wondering if that is "have not been permitted" or also partially "have not wanted." I am referring back to one of the previous briefs where they said the visible minorities feel alienated and feel that the police force is above the law. Again I am going back to my own background where I notice that people who feel the police force acts contrary to their community have no affinity for the police force or for getting into it, or if they do they are not the type of members of society you would want in a police force.

Mr Fuller: Certainly at various times, in our experience, the force suffers from an image problem and that may be more strongly felt just after an incident. That we can admit. But we question why it is that the force can recruit significant numbers to fill roles such as parking control officers and is not equally able to attract the correct people to the force.

We think the testing over time has been with bias. We think they have worked tremendously on that and a lot of that has been corrected, but I think the force suffers from an image problem and has not done enough to remove the image problem. It has not responded adequately to incidents and therefore the general public, and perhaps the minority community, feels very strongly that it is not an environment in which they would be welcome. I think the fault goes right back to how incidents are dealt with and what kind of assurance comes to the community from the police hierarchy.

Mr Sola: I would like to focus on page 5 where you say, "We must also allow a police captain or sergeant from another country to enter our force at a rank comparable with their previous experience." This could be a two-edged sword because it may be okay with countries that have a similar legal setup to that we have here—Commonwealth countries and that—but would we want a police sergeant from Romania or South Africa to come here at an equal rank, because I would suspect that their attitudes, ingrained in them from the police forces they served, would not be the type of attitudes we would want to incorporate into our police force.

Mr Fuller: We did not choose to use the word "equivalent." I think it says "comparable." "Equivalent" would say a sergeant from Romania should be a sergeant here. I do not think that is the message we are trying to say. But "comparable" would take into account all the skills he has acquired and all those additional skills that he would need to acquire, and make a judgement as to an appropriate level. What we are seeing is that all entries are at the level of constable and there are cases where immigrants have acquired significant positions in the force and in order to join have to go way back. But we are not really saying "equivalent," to make that distinction.

Mr Sola: But "comparable" says the same thing. I think we would have to define that a bit more narrowly in order to escape exactly the scenario I painted, because I would not want somebody who has been trained to look at the general population in a negative sense, whether it is a minority or a majority, to get to a position of power in our police force and sort of be able to browbeat those under him to act in a similar vein.

Mr Fuller: I am very much aware that in many countries the general public is scared of the police because of images of torture and other kinds of things. We are really not saying that you transplant a person of equivalent rank. We would have to take into account the need for additional training and the need for sensitization and a clear understanding of the requirements of the Canadian system.

The point was made to emphasize that we think there are talents and skills that are being wasted because for someone who has acquired a significant level of authority or position in a foreign police force, having to enter at the level of constable is certainly a disincentive. What we are saying is that the force should be willing to examine the standards the person possesses and be able, with additional training, to make the appropriate adjustment to encourage entry at a level higher than the level of constable.

Mrs Sullivan: I think this is a very interesting brief. I was quite taken with some of your comments, both in a general, philosophical approach and in the specific recommendations you have made. I live in Halton where I think we have had a police chief who has worked very well in the community to anticipate the kinds of problems that may arise in the future and we have some very exciting programs, right from the policeman

on the bicycle in the community to village policing and the old cop-on-the-beat attitude.

I am hoping that as our community changes increasingly and people from other countries, visible minorities and so on move into our community—we still are a very white community at this point—I suspect that because of this planning ahead of time we may avoid some of the problems, because we do have people from visible minority communities who are very involved now in getting things ready. Maybe I am too optimistic, but it just seems to me to be the right approach to take.

I was very interested in a couple of things here, one of them relating to lateral entries in staff recruitment, whether from other police forces or elsewhere. I wondered if you could tell me what your experience has been in your discussions with members of the police force about what their attitudes are about lateral entries.

Mr Fuller: I work extensively with the police, both the Canadian Association of Chiefs of Police and the local police community. I cannot quote exactly, but I think my impressions are clearly that there is a fear that we will undermine the competence of the force by allowing people in who did not start from the beginning. The same argument is made when you talk about employment equity. The response quite often is that this is encouraging a bunch of unqualified people into the force. Certainly employment equity is not intended to allow that to happen.

I think there is an inner fear, most strongly coming from the police association as well, that lateral entry will be unfair to existing persons and will naturally allow minorities to reach positions of authority too quickly.

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Mrs Sullivan: As well, when you are talking about spending more resources on the recruiting of staff, what specific things do you think could be done in order to move out more into the community, to get a better cross-sampling of a community?

Mr Fuller: The issue that we raised, actually, I would like to expand on. I believe that under the present arrangement the police structure selects members of its own who I do not think have had particular training in human resources or recruitment. It is kind of an on-the-job skill. Maybe someone is identified as being a good speaker and having a good personality, but but does not have recruiting skills. It is why we are suggesting that it may be possible to encourage people from other corporations who have experience in recruiting to get in the force at a level where compensation is commensurate with their experience, and to give them the task of recruiting. It is a management structure and if you recruit people, whatever the job is for, a recruiter is a recruiter. We have a lot of wasted energy out there and I do not think the police have the necessary skills.

Mrs Sullivan: The last thing I want you to comment on just a little bit further is on the last page. You talk about "the need for specific sanctions against any officer who in any way communicates or acts in a racially intolerant manner." Earlier today we had a presentation from a young man who is a lawyer in the Jane-Finch area. He spoke of attempting to define in this legislation what racial discrimination is or what the words or the deeds that comprise that kind of intolerant behaviour are. His view was that it should also be incorporated in this act even though we have other acts where it is more defined.

What kinds of sanctions? How do you see this working? Would this not ordinarily be covered under "misconduct" in the code of conduct that is allowed for in the bill? I would like to know how you get it down on paper.

Mr Philip: It is not even listed there.

Ms Carlan: The code of conduct is in fact listed under section 56 as one of the areas of misconduct. Then it goes to the penalties, which are under section 61. It just seems to me that if "political activity" is strong enough to be listed as an area of misconduct, "racial intolerance" is equally unacceptable and could be included in section 56 as an addendum.

I am looking at the last letter in section 56, which is clause (m), so clause (n) could be "racial intolerance," and then the penalties that are provided for under section 61 would be applicable to a finding of "misconduct" in that way.

Mr Fuller: We would prefer to see that in the act rather than in regulations.

Mrs Sullivan: I thought this was a very interesting presentation.

Mr Philip: If the British can generally define and come up with a working definition as they have in their act in 1984, then I am sure that we can come up with a similar definition and put it under our code of misconduct. What interests me, though, is the sanctions. You are asking that the specific sanctions be in the regulations or in this act for a breach of the code of conduct.

Ms Carlan: It seems to me that they are. Section 56 says, "A police officer is guilty of misconduct if he or she" commits (a) to (m). If misconduct is proven at a hearing, on clear and convincing evidence the chief may do a variety of things to people, which includes firing them, suspending them.

Mr Philip: We heard earlier, though, that under the present act, of 20 actual proven cases, the number of sanctions the police chief imposed, with the exception of one firing, were not a deterrent at all. As a matter of fact, if a police officer was suspended with pay while his case was being heard, then the police officer's act of racism might actually allow him to lie on a beach in Jamaica for two years at full salary until he got a five-day suspension from the chief. It is a little preposterous if the chief has that much discretion and you can get a salary while this thing is dragging on for three years.

Ms Carlan: We agree with you wholeheartedly and that is why we included in our presentation the need for more specific sanctions and reporting for the chief to the commission, the local board of commissioners. Clearly in the last couple of years—remember when the police went on their work to rule as a result of the disciplining of one of their officers as a result of the finding of the public complaints commission. There is a situation where the police went out on a work to rule. The chief of police supported that work to rule, put on a baseball cap and the local board of commissioners did nothing to sanction it.

From just a labour-management point of view, we did not understand what was happening. Who is responsible? Is the chief responsible to the local board? If he is, the local board should take responsibility for sanctioning him when his subordinates, which I assume the police are, act in an improper manner. This is a community group made up of non-lawyers and some policemen and a whole bunch of interested citizens, so our ability to draft specific legislation or wording to help define that relationship is quite limited, but I am sure you have the resources to develop that.

Mr Philip: This leads, interestingly enough, into my next question. The major part of this bill that you have been talking about is not in the bill at all. It is under section 133, which is the regulations section. We have not seen the regulations. The police have not seen the regulations. You have not seen the regulations. Does it not make some sense that we have some kind of review mechanism, either a sunset clause that would require that this bill self-destruct in three years unless it is brought back to the Legislature for re-examination, and hopefully hearings, or some system at least whereby the regulations could be sent to a committee for public input from groups such as yours?

Ms Carlan: That makes a lot of sense to me. I cannot speak for the council or Mr Fuller. It also would accommodate some of the other comments we heard earlier today from the Coalition of Black Law Students. It would allow for that kind of review. The government is acting right now to address what is perceived in the community as a crisis in the relationship between the police and the minority communities in part. This bill has been worked on for a long time. We recognize that there have been several task forces and that there is a need to complete the process soon.

Mr Philip: I wonder if I could ask you to put on a previous incarnation. When we set up the Office of the Ombudsman—I am sure you would agree that this is a form of ombudsman, whether it uses complaints commissioner or whatever; it still is an ombudsman of sorts—it was recognized that we were going into new territory and therefore the Legislature, in its wisdom, set up a non-partisan parliamentary committee called the Ombudsman's committee. The committee was set up as a select committee to provide the Ombudsman with advice, to supervise, if you want, the administrative details. You will recall that this committee took a very hard look at such things as what the administrative problems are that were causing major delays and I think we made some major improvements in that.

Do you feel, in the case of this legislation, that there should be some similar parliamentary review system to look at what is going on, if not for ever, at least maybe in a select committee way so that there would be a review during the first five years of its operation?

Ms Carlan: I always think that accountability is a good idea and I think a proper complaints commissioner, or whoever, should be accountable to somebody. A select committee, it seems to me, makes a lot of sense in terms of accountability because you develop an area of expertise. The politicians develop some expertise and there is a better ability to make the governmental agency accountable for its actions, which is critical it seems to me.

Mr Philip: I have one last question. The Ombudsman has the power to initiate investigations, to do systemic studies on his or her own initiative. The human rights commission can do the same thing. This bill is absent in giving that kind of power to the police complaints commissioner. From your experience in working with the Ombudsman, as an officer of the Ombudsman, is that a useful power to have and do you feel that a number of useful reforms resulted from it?

Ms Carlan: When I was with the office, the Ombudsman never had that specific power. That was a later amendment to the legislation, I think. He did some systemic investigations while doing individual investigations. But I think it is a good idea. I think that was one of the recommendations in the Lewis

task force, if I am not mistaken, that the public complaints commission have that authority. Is that not right?

Interjection: It was the public review board, I think.

The Acting Chair: It has been very helpful to us. Thank you for your submission.

SUBCOMMITTEE REPORT

The Acting Chair: Members of the committee, you have been given a report from a subcommittee that met even while we were meeting this afternoon, I understand. Mr Kanter, do you wish to comment on the report and make a motion on it?

Mr Kanter: I will certainly move it. If there are questions, I think they should most appropriately be addressed to the clerk, but I will certainly move the report.

The Acting Chair: All right. It is the report of the business subcommittee. It is on the floor. Any discussion?

Mr Philip: The clerk explained to me the rationale behind all of this, and having received such a thorough and interesting explanation, notwithstanding the fact that I have some problems with it, I am going to vote for it.

Mr Kanter: I agree with you completely.

The Acting Chair: Are you ready to vote? All in favour? Carried unanimously.

We are adjourned until Monday at 3:30.

The committee adjourned at 1823.

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J-23 1990

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Legislative Assembly of Ontario

Second Session, 34th Parliament

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Official Report of Debates (Hansard)

Monday 18 June 1990

Journal des débats (Hansard)

Le lundi 18 juin 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations
and Policing Task Force



Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers
Rapport du groupe d'étude entre
la police et les minorités raciales

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Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday 18 June 1990

The committee met at 1557 in the Huron Room, Macdonald Block.

POLICE SERVICES ACT, 1989; REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

The Chair: The standing committee on administration of justice is now in session. The committee is in the process of considering Bill 107, the Police Services Act, 1989, and the report of the Task Force on Race Relations and Policing.

POLICE ASSOCIATION OF ONTARIO; METROPOLITAN TORONTO POLICE ASSOCIATION

The Chair: Our first delegation this afternoon is really a combined delegation from the Metropolitan Toronto Police Association and from the Police Association of Ontario. The first group is really embarking on an adjourned or recessed brief which it was in the process of giving last week and it had been adjourned to today's session. I am going to ask legal counsel Ian Roland to introduce his delegation and perhaps give a brief summary of what occurred in the last session when you were here.

Mr Roland: Ted Johnson is the chairman of the Police Association of Ontario Police Act amendment committee, and he is the administrator of the Niagara Regional Police Association. Staff Sergeant Neal Jessop is president of the Police Association of Ontario and he spoke to this committee the last day. His presentation is tab 1 in our written presentation. Art Lymer is president of the Metropolitan Toronto Police Association.

The last day, you will recall, we made a presentation to you by way of introductory remarks put forward by Mr Jessop and then I began a clause-by-clause review of the Police Services Act. I got along about as far as page 15 of tab 2 of our brief, having dealt with the various sections up to section 50, which you will see is found at page 15 of our brief, and it is the section concerning legal indemnification.

Let me start by saying that this is seen by all police officers in this province as an absolutely critical issue; that is, the amount of legal indemnification they may be entitled to as a result of incurring legal expenses in the defence of allegations, either civil or criminal, or with respect to proceedings that focus upon the police officer's manner of execution of his or her duties.

First of all, in dealing with the issue of legal indemnification, what we ask the committee to remember and keep in mind is that police officers are the only persons in our society who are expected to physically apprehend criminals or alleged criminals. That is, they are the individuals in our society who are asked to physically restrain other citizens. They are per-

mitted to use sufficient force, that is, physical force, necessary to carry out their duties, but they may not use excessive force.

To a very large extent, the context of allegations of impropriety for police officers focuses upon allegations of assault. It probably makes up 90% of the allegations that officers have to face in one context or another.

The context of our society is that the milieu in which we live is becoming increasingly violent. We see that in the statistics that are trotted out on a regular annual basis. That is, there is to a very large extent less respect for or deference to authority, such authority as police officers. Many members of our society are increasingly prepared, indeed willing, to physically resist or confront police when the police are attempting to execute their duties, the duties we as a society call upon them, indeed expect them, to perform. When officers do perform their duties and physically confront, seize, restrain or control citizens, the same citizens are very much more likely today than in the past to allege that the officers have used excessive force.

Society invites these complaints. Indeed, that is what the complaints part of this legislation invites. Community leaders invite complaints and vocal members of many minority groups encourage complaints against police officers, especially in the form of criminal charges against those officers.

The result is that police officers are increasingly put in the position that they must defend their actions in carrying out their duties, the actions that we expect those officers to carry out, against allegations that they have crossed over an often difficult to determine line between sufficient and justifiable force on the one hand and excessive force on the other.

We the society then, in the exercise of examining what has gone on in some incident, look back in retrospect and in great detail to the incident complained of to draw the line between acceptable force on one hand and excessive force on the other. Then we penalize that police officer if we find that he or she has passed over the line.

The officer does not have the advantage or the luxury at the time of such incidents to be able to precisely or objectively or retrospectively draw the line. The officer has to immediately respond to the situation, which often demands a split-second decision.

Any police officer who is called to account for his or her actions in a criminal or a civil proceeding faces, or may face, enormous legal costs in defending himself or herself.

Section 50 would force these officers to pay this penalty, that is, the penalty of very severe legal costs in defending themselves, if that officer is found in retrospect to have used excessive force and hence been guilty of assault, even in situations in which the court looking at it may say, "Listen, this is a technical assault, you have used excessive force," but the circumstances do not call out for the officer, for instance, to be criminally convicted but rather that the officer should be and is granted a discharge, either absolute or conditional. Or indeed the case may be that the incident does call for a conviction but that, in looking at the events, the officer was acting in good faith in an attempted lawful performance of his or her duty and there was no deliberate abuse of that officer's powers as a police officer.

In those circumstances where that officer is found to be guilty or is convicted, even though, looked at objectively by others, a board of commissioners of police or a court, there was an attempt on the officer's part to lawfully perform his duty although he exceeded, crossed over the line and there was no deliberate abuse of his powers although he crossed over the line, this legislation, section 50, would say to that officer, "Too bad, you have to pay that very substantial economic penalty."

That is what is put at risk then for the officer. With this wording, the officer now says, in any event he is called to, most of which call for his using force to subdue citizens in one fashion or another, he has to say to himself or herself, "Listen, if I act and carry out my duties, I put at risk my home, my family, my future." That is what this legislation says to the officer: "You put all that at risk, whether you are attempting in a bona fide, in-good-faith manner or not to exercise your duties. If someone objectively looks back at this and says you have crossed over the line, you are going to have to pay that penalty."

This is very unfair, and not unexpectedly we may find that officers are not prepared to take those kinds of risks.

What this legal indemnification provision means is that even though officers acting in good faith in the performance of their duties, not intending to abuse their powers, are nevertheless found, retrospectively, looking at drawing lines, to have committed an assault in a technical sense—and there are lots of examples of those out there where that has happened across this country—this provision says: "Too bad, you do not get any legal indemnification. You have to pay what can amount to an enormous personal cost in retaining a lawyer to act for you to defend your conduct."

What it also means is that what has heretofore been the scope of bargaining between police associations representing officers and the boards of commissioners of police is cut back, because under the present Police Act legal indemnification is something that may be bargained without restraint or restriction.

What has the effect of that been? The effect of it has been provisions like the one we put at page 16, which is from the Metropolitan Toronto Police Association collective agreement, and it provides that even if an officer is found guilty but is granted a discharge, the officer may receive legal indemnification if his actions do not constitute a gross dereliction of duties and if he is well motivated in at least attempting or intending to carry out his lawful duty.

The effect of this amendment to that provision introduced into the Police Services Act in section 50 is to say now the public is saying to police officers, "We are not only going to hold you to account increasingly"—as our society does through complaints processes and inviting criminal charges and all of that—"but when you are technically guilty, even though you may have been well motivated and you have not deliberately abused your powers, you are nevertheless going to be penalized because we are not going to pay your legal indemnification unless you are found not guilty. That is the only circumstance."

1610

Quite frankly, that is unacceptable to police officers in this province and should be unacceptable to this committee and to the Legislature because of what we demand of police officers, the only members in our society we place this kind of burden on. What we have said in our brief is that there should be the right of officers at least to be legally indemnified where they are granted a discharge.

In addition, the same would hold with respect to a civil action, because clause 50(2)(a) says "in the defence of a civil

action where a member is not found to be liable," and of course the same thing occurs there. It is even a lower standard. On a balance of probabilities you may have used excessive force, but even there the member is not going to be reimbursed his legal fees in the defence of a civil action. That again cuts back on the scope of bargaining because that was a subject matter that was regularly bargained, or could be bargained, that officers would be compensated for their legal fees in the defence of a civil action, irrespective of whether they were found liable or not.

Finally, with respect to clause 50(2)(c), as I think I indicated the other day, it makes little sense, and the reason it makes little sense is that there are going to be proceedings like coroner's inquests and royal commissions of inquiry and other things where the officers' manner of execution of their duty is going to be an issue but there will not be, by the nature of the proceeding, a finding that the officer has acted in good faith. It is simply not part of the proceeding.

I cannot emphasize too much to this committee the importance of this provision for the police officers in this province.

Let me turn to the next issue, which is auxiliary members. There have been amendments introduced. What we ask under the provision concerning the appointment of auxiliary members and their use is that there be a definition of "emergency" and a definition of "special occasion."

The amendment introduced the concept that is already with in the present Police Act, that auxiliary police officers or auxiliary members of a force only be used in emergencies and special occasions, and there has been difficulty in the past in determining and defining those terms. What we ask is that definitions be placed in section 52 to properly define those provisions.

With respect to special constables, the minister introduced an amendment concerning them and the effect of the amendment, as we indicate in our brief, surely was not what was intended. Its effect is that it invites boards of commissioners of police to use special constables on a part-time basis as part-time police officers. What must be straightened up in that section is a clarification that special constables may only be used either on a full-time or part-time basis to carry out other than the usual duties of a police officer.

As we say in our written submissions, we have no difficulty with the traditional use of special constables, things like serving summonses, court security, bylaw enforcement, the kinds of things that have traditionally fallen within the purview of special constables. What is at risk with the present amendment is that boards of commissioners of police will use special constables as part-time police officers. These are civilians in uniform, essentially, and with this kind of amendment, the amendment that has been put without clarification that it covers both full and part-time persons, special constables will simply be used as part-time police officers.

Turning to section 58, page 25, under the Police Act as it presently exists and the regulations, the chief of police must determine whether or not the disciplinary allegations made against the officer warrant a discipline proceeding. Under the present drafting of section 58 there is an invitation to use the discipline procedure to investigate, as simply an investigative tool, because it simply indicates that the chief of police may investigate the matter through holding a disciplinary hearing. With great respect, that is something that should not be permitted. There should be a determination, first of all, whether or not the allegations are sufficiently serious or sufficiently made out or backed up by a sufficient investigation already carried out to warrant putting an officer through a disciplinary process.

It is not to be used, and should not be used, as an investigative tool. So we propose an amendment, set out on page 26, that makes that clear. You will see it is subsection 58(4).

Let me turn to the next issue, subsection 59(2) on page 26 of our brief, dealing with the expungement of discipline records. This focuses upon the informal discipline and provides that the record shall be expunged after two years. We ask that this be reduced to one year. This was the subject matter of a committee struck by the Deputy Solicitor General of various members of the police community, including the chiefs of police and the policing authorities. The agreement reached was that this should be a period of one year, not two years. For some unknown reason, the consensus reached in the committee has been increased to two years, and we say one year in this kind of admonishment is sufficient time on an employment record.

Let me turn to the rules of evidence, section 60. Let me deal with the rules of evidence in this way, distinguishing them clearly from the onus. You may recall that there has been, if not before this committee generally, some debate about what the onus of proof should be. Under the Metro Toronto citizens' complaints legislation, the onus of proof was "beyond a reasonable doubt," the criminal standard. That has been changed in this legislation to "clear and compelling evidence," or words to that effect; that is, moving it down to the civil standard of proof but at the higher end of the civil standard, recognized as the kind of standard of proof for professionals generally, doctors, lawyers and so on. In professional disciplinary kinds of proceedings, that is the standard of proof.

1620

In discipline proceedings of virtually all of the other professions in this province that are regulated by statute, the standard for the admissibility of evidence—not the onus of proof at the end of the day, but what evidence is to be admitted in the hearing process—is that standard fixed by our civil courts; that is, all of the statutes that govern professional nurses, doctors, lawyers, engineers, accountants, architects. You can go through them all. All of those statutes contain a provision that says that the discipline hearing should only receive evidence that would be admitted in a civil court. You say, "How is that different from what's proposed in this bill?" It is substantially different, because presently all that is required is the application of the Statutory Powers Procedure Act, and it permits hearsay, it permits gossip, it permits things to be admitted that would not be admitted by a civil court.

The reason I mention the Metropolitan Toronto Police Complaints Act is that it was the standard before the hearings under that act. That is one of the major complaints that police officers in Metropolitan Toronto have had, that everything seems to be admissible, there are no rules. Even though the standard of proof was proof beyond a reasonable doubt, there were no rules about what could be admitted and so on. So you have brought the standard of proof down to all the other professionals governed by statute in our province, but you have not brought the standard of evidence to conform to the kind of discipline hearings that those professionals face. You say: "No, for police officers, we'll permit anything. We'll permit gossip and hearsay." But it is not permitted for any other professionals, and quite frankly, that is a double standard. You have brought the standard of proof down, but you have not brought the standard of evidence admissible up to correspond to the other professionals in our society. We ask that the rules of evidence be brought into conformity with that other legislation.

Section 60 deals with communication between the hearing officer and the prosecutor. I already spoke to that the other day, that there are in this act now a couple of provisions that say the hearing officer, the adjudicator, is not to communicate with the parties except in the presence of the parties. What is missing in the legislation is a similar requirement at the critical level, the discipline hearing level, where the hearing officer decides the case. At that level, without the restriction, the implication is that the hearing officer can talk to the prosecutor whenever he or she likes, and that is the experience that unfortunately has been the case in discipline proceedings up until now. There does not seem to be a separation between the hearing officer hearing the discipline proceeding and the prosecutor. We say that the separation should be made clear in the legislation, and we ask therefore that you recommend an amendment to section 60 as we have indicated.

On subsection 60(4), dealing with the examination of evidence, what we ask is that the officer be assured that he is going to be able to see all of the evidence, including the written statements of witnesses, and that he can get copies of them. Up until now the problem has been that chiefs of police or prosecutors say: "Oh, sure, you've got a right to look at some of these. We'll let you look at them. You can look at them in the office, you have half an hour, and you cannot take copies and you cannot take notes." It is not very effective, it is not very useful and it is not fair to the officer unless he can have the statements and have copies of the documentary evidence that is going to be produced. We simply ask that this amendment be made. There was consensus in the committee that this provision should be made out in the legislation, but it has not come through in subsection 60(4).

Subsection 60(6) has it presently that the officer may be ordered to give a statement in a matter and then that statement, because there is no prohibition against it—and this has been the case in some forces around Ontario—turns up to be used by the prosecution to prosecute the officer. He has to give the statement. He is forced to do it and then it is used to prosecute him.

We say that simply is unfair. It goes against all of the normal rules, certainly both in criminal matters and in labour relations matters. No other employer in any other context can require an employee to give a statement and discipline him if he does not but, if he does, use it to discipline him. We say that is simply unfair to the officer and unfair to the process.

The compromise we propose is that where the officer is ordered to give a statement, the statement not be used in the prosecution of him. However, so that the officer cannot simply give one account at one time and one account later in the discipline proceeding, if the officer gives a different account in his or her defence, then the statement may be used to contradict the evidence given in the discipline proceeding.

Subsection 60(10), the limitation period: We have said about the six-month limitation period that it is really meaningless where it is simply left to the board, the employer, to be able to extend it without any parameters being imposed on it. We have set out on page 33 what those parameters should be; that is, there should be reasonable circumstances to explain the delay and the officer's ability to defend the allegation should not be materially prejudiced by the delay. Those are the parameters the board should look to in deciding whether it is going to consent to enlarge the six-month limitation period.

I have heard it expressed that there are some problems with our amendment because it leads to the assumption that there is going to have to be a hearing about the limitation period. We are quite prepared to put forward an additional amendment.

Indeed, we do put forward an additional suggested amendment to obviate that by saying something like, or words to this effect, "Before the board makes a determination under subsection 60(10), it shall give the subject officer an opportunity to be heard orally or in writing, but the board need not conduct a hearing."

What we ask is fairness, the standard of fairness that the Supreme Court of Canada has imposed on boards in other contexts of probationary officers; that is, the board must enter into these considerations: Is it reasonable to extend the limitation period? Is the ability of the officer to defend it materially prejudiced in some way? In making that determination, it must hear from the officer, not by a hearing process but by oral or written submissions. That is something we say needs to be introduced in fairness to the officer.

Let me deal with subsection 61(6), dealing with a police officer's employment record. First of all, let me say there was a general agreement among all members of the Deputy Solicitor General's committee, all the parties representing the various elements of the policing community in this province, that there be a provision introduced for the expungement of an officer's discipline record and his employment file where no misconduct entries have been made within a period of four years. That has not found its way into the draft bill.

1630

We can understand how someone would say, "Well, even after four years, how can we take out a serious discipline record that may have resulted in the officer's being demoted, the second most severe penalty after dismissal, even if he has had a clean record for four years?" We understand that. Maybe this requires some adjustment.

But on the other hand, what happens and happens regularly is that an officer is reprimanded about something not treated very seriously at the time, it finds its way, as it does inevitably, into his employment record, and 10, 15, 20 years later it is still held against him. He cannot get his service medal, he cannot get a promotion because the employer keeps digging up this outdated minor disciplinary event that occurred years and years earlier. It is never forgotten, it is always held against him, and that is what is unfair. That is what we are focusing on and that is why the committee said, "We agree there should be a date at which, when the officer has had a clean record, that discipline event is removed from his record." We say the appropriate period is four years.

Our criminal process recognizes that persons who have been convicted for criminal matters get pardons.

Mr D. R. Cooke: If they apply.

Mr Roland: If they apply, absolutely. On application or otherwise, this would not permit any kind of removal of the discipline record.

Mr D. R. Cooke: May I ask you a question on that point?

Mr Roland: Yes.

The Chair: I think we should defer questions till the end.

Mr Roland: Let me jump over to two matters that I think I want to deal with quickly so that we can carry on to the next speaker. One you will see at page 35, subsection 71(2), dealing with earnings from other employment. This is significant because, without the amendment we propose, the officer who may be suspended and has his income reduced by other employment is going to be seriously prejudiced if he has any other secondary

employment that existed before the suspension. So an amendment needs to be made to clarify that.

We have dealt with, at page 36, other companion amendments to the submissions we have already made. Let me speak to subsection 118(3), because since we prepared this submission there has been an amendment to that to exclude from the scope of bargaining working conditions that are governed by the act. Until the amendment, it was simply the working conditions governed by the regulations. Now introduced into this section are working conditions governed by the act or the regulations, and this is critical and very, very troublesome to the policing community and all of the members of the Police Association of Ontario.

We understand this amendment was unintentional in the sense that it did not intend to cut down the scope of bargaining, but that is its effect or its very serious potential effect, to very seriously cut the scope of bargaining. It threatens to fundamentally change the present bargaining relationship. If it is permitted to remain, quite frankly, it will turn the PAO and the police officers of this province fundamentally against this bill and against this government, because what it does or proposes to do is remove working conditions governed by the act, which may be very broadly interpreted and covered in the exclusive powers of the boards.

For instance, if you look at clause 31(1)(b), it gives over to a board of commissioners of the police the exclusive power to determine objectives and priorities. That may very well be interpreted as covering working conditions such as health and safety. It may preclude health and safety issues being bargained, things like two-officer police cars, something that was bargained back in the mid 1970s and went to the Supreme Court of Canada and was found to be within the term "working conditions" as set out in section 29 of the Police Act. This amendment may preclude the scheduling of hours of work, it may require compulsory overtime.

All of those may be found within clause 31(1)(c), because 31(1)(c) gives over to the board the right to "establish policies for the effective management of the police force." The argument that is going to be put is that a "working condition" covered things like split shifts, promotions, special leaves; all of those are necessary matters to be established by the management in order to effectively manage the force and thus the associations could be precluded from bargaining them.

Section 38 deals with equipment, and the police associations have bargained equipment and facilities; they have bargained those things. They have bargained wallets, shirts, pants, IDs, lockers, lunch rooms. All the kinds of things that employees elsewhere bargain, police officers have bargained. Now this amendment proposes to remove all those things from bargaining.

This amendment, we understand, was intended to remove those things that have been removed from bargaining that may quite properly be removed from bargaining, such things as discipline and citizens' complaints. We have no problem removing those things from bargaining, but the scope or the net cast by this amendment is much, much too broad and must be cut back so that the net effect is that the scope of bargaining has not been changed. That is, police associations can be assured that they continue to bargain what they have traditionally bargained and can presently bargain under the present Police Act.

The Chair: Thank you. Did you want to leave all the questions until the end?

Mr Roland: Yes. I think that would probably be useful.

The Chair: I have added 25 minutes to the back end of your presentation because of the late start, so we will be going until about 5:40.

Mr Lymer: Mr Chairman, do we have a quorum?

The Chair: We do not at the present time. Do you want to wait until we gather a quorum?

Mr Lymer: No, that is okay. I am just wondering about the technicalities of not having a quorum.

The Chair: Unless a member of the committee technically asks for a quorum call, we can proceed. They usually go in and out.

Mr Lymer: The Metropolitan Toronto Police Association is the bargaining agent for the members of Canada's largest municipal police force. Currently we represent approximately 5,500 police officers and 2,100 civilians. On their behalf, I wish to thank you for the opportunity to make a few brief remarks concerning Bill 107.

It had been our original intention to present to you a detailed critique of the bill similar in approach to that provided by the Police Association of Ontario. Considerations of time and the extended scheduling for completion of that presentation no longer made that possible.

Let me start, therefore, by saying that the MTPA adopts as its own the concerns expressed by the PAO and we endorse its recommendations for changes to the bill.

1640

Like Mr Jessop, who addressed you on behalf of the PAO, I believe that I can lay claim to speaking for the officer on the street. I have been a police officer since 1952, when hired by the then City of Toronto Police Force. Since that time, at one time or another I have rubbed shoulders with the rank and file as a beat constable, a scout car patrol officer, a motorcycle officer and a station duty officer. I have also served in the youth bureau and as a detective in the morality bureau and at 52 Division's criminal investigation bureau. I currently hold the rank of detective sergeant and am assigned to 55 Division in the east end of the city of Toronto.

I have also represented members of the force in various capacities since 1959, when I became an association monitor, which is the equivalent of a shop steward in union circles. I was elected to the association's board of directors in 1977. I served as a director until 1984 and was the executive vice-president of the Metropolitan Toronto Police Association from 1980 to 1984. I was again elected to the board of directors in 1987 and I have been president since 1988.

As president, I am involved in a number of challenging areas, including race relations and employment equity. I participated in Meeting the Challenge, the Jamaican Canadian Association's conference on police-black relations, and I attend the meetings of the Toronto Mayor's Committee on Community and Race Relations. I am also a member of the council on race relations and policing, the force's racial harmony subcommittee on employment equity and the Solicitor General's implementation committee set up following the report of the Race Relations and Policing Task Force.

What I wish to do today is to devote the time available, first to a few general observations. Then I want to respond to various issues raised with you on 4 June 1990 by the submissions of the Metropolitan Board of Commissioners of Police, particularly in the area of labour relations.

I agree wholeheartedly with the submission, which stated in part: "A city such as ours becomes a magnet for both development and immigration, characteristics which make policing in this community an ever-changing challenge. The board hopes that the new act will allow us to continue to maintain a safe city in this unique policing environment."

Equally I applaud Mr Jessop, president of the PAO, for pointing out, "If no financial incentive is offered to future members of our profession as it becomes increasingly complex and unrewarding, the quality of our members is going to deteriorate."

All too often when policing is discussed the focus is maintained on broad principles. Without denigrating the importance of these principles, it is worth while remembering that once in a while police services are being delivered in often trying circumstances by working men and women who deserve honest wages and benefits for an honest day's work. They also deserve fair parameters within which to bargain or arbitrate their wages and working conditions.

I cannot agree more, therefore, with Mr Jessop's observation that subsection 121(5) of the bill is unacceptable because it places restrictions on arbitrators and fetters their discretion. Where the right to strike does not exist, it should automatically have an impartial system of arbitration to be used instead. Subsection 121(5), if taken to its logical conclusion, could be used to justify a community receiving a far higher standard of police service than it is prepared to pay for. Police officers and civilian employees must be protected from a system that could result in their subsidizing their communities. Subsection 121(5) is just such a system and should be removed from the bill.

As a second observation, I want to emphasize that policing an urban, multicultural environment is as stressful an activity as one can find anywhere. The day-to-day rigours of the police profession are hard to express to those who have not experienced them. Policing can also be a very frustrating career and requires a higher degree of self-discipline than is demanded of most.

The average police officer has little control on his or her working life and must deal professionally with both physical and verbal abuse. The integrity of officers is frequently called into question in the press, but officers cannot respond. The propriety of officers' actions is also questioned by means of the citizens' complaints. In that forum, however, the officer can defend his or her actions. It is an unfortunate reality, however, that complaints are sometimes frivolous and vexatious and are withdrawn before being aired in open court and before the officer can publicly clear his or her name.

While the Metropolitan Toronto Police Association supports the concept embodied in section 83 of the bill concerning the withdrawal of complaints, it also strongly advocates that complaints should not be withdrawn without the officer's consent. The very fact of a complaint having been laid and subsequently withdrawn can have an adverse impact on an officer's career. If officers wish to proceed to a hearing to vindicate themselves, they should be allowed to do so.

Turning to the submission of the Metropolitan Board of Commissioners of Police, a number of its suggestions, though not all, demand a response.

Recommendation 3, the bargaining committee membership: The current Police Act and Bill 107 both require the presence of a member at board negotiations. This is as it should be. A board must do more than merely maintain close scrutiny and control over bargaining, it should actively participate in the process.

The experience of our association has been that whenever the parties have waived the necessity of the presence of a board member, the negotiation process has lacked meaningful dialogue. Progress on important issues affecting the day-to-day lives of thousands of people has been stalled.

It is crucial too that a board member be exposed to a process where, for once, board members and the rank and file meet face to face as equals and where the hopes and frustrations of otherwise anonymous officers and civilians are expressed candidly. It is our association's view that no board member can properly fulfil his or her elected position and responsibility to establish policies for the effective management of the police force, Bill 107, clause 31(1)(c), without descending for a while from the ivory tower. We urge you, therefore, not to tamper with clause 34(b) of the bill.

Recommendation 4, that police officers continue to meet certain criteria: The Metropolitan board has suggested that subsection 43(1) be amended to clarify that the criteria for becoming a police officer must continue to be met if someone is to remain a police officer. This amendment is unnecessary.

In the first place, it is hard to understand how the criteria of being at least 18 years of age and having at least four years of secondary school can be met at one point in time yet not met at a later point. It is therefore, presumably, to the other criteria that any clarification should or would be directed. Such clarification, however, is redundant. There are detailed procedures available, where due process is observed, for dealing with officers who deviate from the standard of being "of good moral character and habits" or who are no longer "physically or mentally able to perform the duties of the position." These other detailed procedures are equal to the task. Subsection 43(1) needs no clarification.

Recommendation 5, deletion of permanent resident status: The board says no one who is permanently resident in Canada but not a Canadian citizen should be eligible for appointment as a police officer. Its fear is that such a person's status does not demonstrate the level of commitment to Canada that should be reposed in our police officers. The association disagrees with this position.

New immigrants are ineligible for immediate Canadian citizenship, regardless of their commitment to their new country, because they must reside here for the prescribed period of three years before applying to become citizens. They should not be prejudiced in their initial choice of career. Indeed, many may already have valuable police experience elsewhere which could be put to good and immediate use in Toronto and other parts of the province.

If any amendment is contemplated to this criterion, it should be restricted to those persons who are eligible for Canadian citizenship but who have not applied therefor. In that case and that case only could it be argued that a sufficient level of commitment to Canada is lacking.

Recommendation 6, length of probationary period: A 24-month probationary period, as suggested by the Metropolitan board, is not required. We agree, however, with the PAO submission that subsection 44(1) of the bill does require clarification since there is no statutory requirement for training and thus it could result that an officer would constantly be on probation. We doubt this was intended.

1650

The PAO solution, making it clear that the Ontario Police College training must be completed within six months of an officer being appointed, seems a sensible one since in most

cases it will also preserve the current 18-month probationary period, which has proved itself over the years to be an adequate length for a proper assessment of an officer's abilities to be made.

Recommendation 7, the extension of the probationary period: The Metropolitan board advocates that the probationary period should be capable of being extended in appropriate circumstances. Our association agrees with this principle provided (1) that the probationary period is not established at 24 months in the first instance and (2) that the safeguard of association consent suggested by the board is included in any amendment to the bill. Extended probationary periods for civilians have on occasion been agreed to by our association with happy results for all concerned. There is no reason to believe that the experience should be any different if extended probationary periods were allowed for uniformed personnel. One addition we would like to make to the board's suggestion, however, is that the extension period should never exceed six months. In essence, therefore, we advocate a basic probationary period of up to 18 months, extendable up to 24 months in exceptional and appropriate circumstances on consent between the board, the association and the individual officer.

Recommendation 8, probationary period for officers appointed by another force: Officers who have undergone a probationary period with one force do not presently have to serve another if they join another force. The Metropolitan board wants to alter this even though no evidence is advanced to indicate that the desired change is anything more than change for change's sake. We believe there is no necessity for a second probationary period to be served. An officer who has served a probationary period should not be required to do so again. The officer has already demonstrated his or her ability to carry out the duties and responsibilities of that office.

Recommendation 9, accommodating disabled officers: The Metropolitan board's suggestion is that to accommodate an officer it may be necessary to alter his status as a holder of office to that of civilian employee. We do not agree with this recommendation for the simple fact that the officer could perform civilian functions without relinquishing his office and status. The vast majority of officers are extremely proud of their badges. To deprive them of their status in a situation where mental and physical disability have already devastated their lives by making them incapable of performing the essential duties of a particular position is an unnecessary humiliation.

Recommendation 10, discipline appeal hearings: The Metropolitan board has made alternative recommendations under this heading to the effect either that the bill be amended to allow discipline appeals to be heard by three or more members of the board at the board's discretion or that the bill should be amended to allow a hearing officer to hear appeals and to make recommendations to the board as to what decision it should make.

The MTPA finds this latter recommendation abhorrent since it rejects the fundamental principle of natural justice that a person who will be affected by a decision has the right to be heard by the ultimate decision-makers.

We do not, however, have any problems with the board's suggestion that the board should be given the power to have its appellate functions carried out by three board members. As matters presently stand in Bill 107, a quorum of four members on the board must hear appeals. We would, however, suggest that one of the three board members should always be the chair. This would foster consistency.

Recommendation 11, discipline appeals: The Metropolitan board has recommended that subsection 63(5) of the act be changed to permit less than a quorum of the board to make a decision. The board's concern about appellate decision-making is that in exceptional circumstances it may be unable to render its decision because a board member becomes indisposed for reasons beyond anyone's control. The recommendation, however, goes far beyond what would be required to address this concern and essentially would allow a board member to opt out of participating in the decision-making process on any ground.

The association is mindful that, generally speaking, provided a quorum is present, a tribunal is capable of making a decision even though one of the people who has heard all the evidence is absent because of death, resignation or ill health. A limited clarification of the bill to take account of these extreme eventualities would be acceptable. In other situations, however, the police officer's consent should be preserved as a condition precedent to a decision being taken by less than the number of persons who were present throughout the hearing.

Recommendation 13, implementation of discipline punishments: The Metropolitan board recommends that the bill be amended so that officers dismissed by a tribunal under clause 61(1)(a) or whose dismissal or resignation is required under clause 61(1)(b) should be immediately denied the continuation of wages and benefits. An amendment of this nature would be wholly unacceptable, not only to our association members but also to all officers throughout the province of Ontario.

What the board is advocating amounts to the wholesale rejection of centuries of common law concerning the status of constables as office holders. Police officers are not simply employees, nor should they be in a democracy which prides itself on a meaningful separation of powers. The courts have ruled on more than one occasion that a police officer's salary is paid to him or her by virtue of holding an office and not by virtue of whether he or she is working during such a period. Thus, until he or she is finally deprived of office, salary must and should be continued.

The association doubts the Metropolitan board's view that the "public perception of the force is diminished because the force continues to retain an officer who has committed an offence serious enough to warrant dismissal." Our association has more faith in the public's interest in ensuring that due process is served.

In conclusion, I would like to go on record as being someone who is optimistic about the future of policing in Metropolitan Toronto and the province of Ontario. It is clear that a lot of hard work is still necessary. I am nevertheless convinced that if goodwill and open minds prevail, under the umbrella of the new legislation we can not only continue to deliver an already high standard of police service but we can improve upon it.

There is another reference I would like to make to section 49, which is proposed to be changed, and that is political activity. Section 49 reads that, "No member of a municipal police force shall engage in political activity, except as the regulations permit." I do not know what political activity is meant, whether it means that I cannot run as a school trustee, whether it means that I cannot support someone I would like to see elected into office or whether it means I cannot even have a vote. And the regulations can be changed at any time without coming before the Legislature.

1700

The Chair: Thank you, gentlemen. We will proceed with questions from members of the committee.

Mr D. R. Cooke: I have a number of questions, first to Mr Roland.

I am sorry that I did not hear the first part of your presentation, but today you started off by talking about the issue of costs in civil proceedings and then you spoke of the issue of costs in criminal proceedings, or I suppose the issue of negotiation of the costs of defending complaints. I note that as Bill 107 stands, the discretion is there on costs in civil complaints. You object to that. You apparently are submitting that it should not be there, but rather that it should automatically occur. Then you go on to object to the fact that discretion is left there in section 50. It seems to be a little inconsistent. I tend to be sympathetic with what you are saying with regard to clause 50(2)(b), but in clause 50(2)(a) I am afraid I do not have much sympathy with what you are saying. Why can you not convince the board to pay costs if it is a matter that merits costs being paid?

Mr Roland: Quite frankly, I find section 50 combined with clause 31(1)(h) a little confusing. If you go back to clause 31(1)(h), you will see that it provides that the board is responsible for the provision of police services and crime prevention and "shall (h) establish guidelines with respect to the indemnification...for legal costs under section 50." So it must establish guidelines under section 50. Then when you go to subsection 50(2) it is a little confusing because it says that, "The board may, in accordance with guidelines established under clause 31(1)(h), indemnify." It sounds permissive; that is, a board may do it. I presume what you draw from that is that a board may not as well.

Mr D. R. Cooke: The police hire you to go before the board and convince it to.

Mr Roland: No. What happens here, though, is that 31(1)(h) says you have got to establish some guidelines; then you go to 50 and it says that you may establish these guidelines. It would appear then that you could establish some other guidelines. You could maybe establish guidelines that state that officers only be compensated if they are found not guilty of murder and under no other provision would they be provided with legal indemnification. It is hard to know here what is contemplated. What I think is contemplated is an upper limit. What I think is meant here is that when you come to establish guidelines you cannot do so beyond the limit set out in clauses 50(2)(a), (b) and (c). I think that is what was intended, although the language is not very clear.

The upper limit for civil proceedings, it would appear, is that the member has to be found not liable. If he is found liable—that is, if he is found to be negligent—he is not going to be entitled to any recovery and the board cannot provide it because that is the upper limit. In a criminal matter, if he is found other than not guilty—that is, if he is found guilty and discharged, or convicted but it is seen as a matter that is technical—he still cannot be indemnified. I think that is what is intended there, the language being not all that clear.

If that is the case, it of course creates an upper limit that does not exist now, and the effect of subsection 118(3) is you cannot bargain about it because it is a working condition governed by the act. It is something we have always been able to bargain about without any upper limit. This legislation says, "Uh, uh, we're setting an upper limit, and this is the upper limit." We say that is not justified and it is not fair to the officer

to set an upper limit where he may be negligent but he is carrying out his duties in good faith, attempting to do the best he can. He is found retrospectively to be negligent and he is going to have to suffer the costs. It is not fair in a criminal process, for the reasons I have indicated.

Mr D. R. Cooke: Moving along to section 58, you complain about the permitting of an investigation to occur. You are saying we should have subsection 58(4) read that, "Discipline proceedings shall not be commenced against a police officer unless the chief of police...concludes, on the basis of information available...." I really do not understand what harm there is in the chief of police having an investigation to determine what information really is available. "Information available" might mean proactively finding it. Surely your suggestion there is almost subverting justice by suggesting that he has to have it just set out in front of him without any kind of investigation.

Mr Roland: No, not at all. This is a complaint. If you look at subsection 58(2), you will see, "The chief of police may investigate the matter by means of a hearing under section 60." So he can conduct his investigation not in the normal way one conducts an investigation—interviewing people, gathering evidence and so on—he can simply receive an internal complaint about an officer and say: "I'm not going to do any investigation in the normal way. Instead, I'm going to hold a hearing and we'll use the hearing as the investigation tool." That is extraordinary, to put an officer through a discipline hearing as an investigation tool. We expect the chief to do the kind of investigation that is normally done. You go out and you gather evidence. He or someone interviews witnesses and gathers the information and then makes a determination, should a discipline proceeding be commenced or not, based on that investigation. But do not use the discipline process as the means of investigating.

Mr D. R. Cooke: All right. I see what you are saying.

Section 61(1): The Criminal Code, I suppose, forces situations to occur as well with regard to people who have criminal records, having those records haunt them throughout the rest of their lives in ways in which society may not have initially intended. What a person with a criminal record can do is apply. When he applies, then an investigation occurs, his present status is determined and then the decision is made as to whether or not it is appropriate to seal that record away from the public.

Would you endorse that kind of procedure with regard to a police officer's employment record? In other words, rather than what you are suggesting, which would be that it automatically lapses, perhaps we could have some sort of procedure where he could apply to have that record reviewed with a view to being pardoned.

Mr Roland: Sure. I do not think the Police Association of Ontario has any problem with that. The obvious mechanism or entity to do that would be the commission. If that is the way in which police officers can get out from under a stale, long-past discipline—often of a very modest kind—then we have no problem with that. There has to be some means by which an officer can say that at some stage the book is closed on that event. That is the problem presently. It is never closed with many municipal boards. They will go back and dredge up something relatively modest that occurred 10 and 15 and 20 years before and hold it against the officer for ever. There comes a stage in which those matters have to be put to rest.

All we are proposing, I stress, and which was agreed to in the committee by the police employers, is that four years is an

appropriate time. If an officer has a clean record for four years, then whatever was on there before is stale. If we are concerned, as I have heard expressed by some—maybe it was a very serious matter; he was demoted because of, you know, it was just short of discipline—that four years is too short, that is fine. Maybe for some disciplinary offences in which the most severe penalties were imposed four years is too short, but there has to be a mechanism, one that you propose or one that we propose, in which an officer can say, "Listen, that matter is now staledated."

1710

Mr D. R. Cooke: I have a lot of sympathy with the need for some sort of a mechanism.

Finally, Mr Lymer has asked us to define section 49, without giving us any opinion as to what his own view is. I wonder, Mr Roland, what your view is of police officers' political activity.

Mr Roland: Clearly, that is a difficult question. I think the Ontario Law Reform Commission has actually done a report on this in the context of civil servants and so on—

Mr D. R. Cooke: Civil servants?

Mr Roland: Yes, but in many ways it touches on many of the same issues.

Obviously, I would have thought a police officer cannot engage in political activity, run for office, for instance, in the municipality in which he is a police officer. There is a clear conflict between his role as a police officer and being on a municipal board which may be indirectly part of the employer or related to the employer. So there are going to be those kinds of inconsistencies or conflicts that clearly must be prohibited.

On the other hand, why should an officer not be entitled to serve on a board of education in some other municipality? There are instances of those. There are instances that have existed in which officers have been required to resign because they ran for office on a board of education, not even in the municipality in which they are police officers but in some other municipality. It seems to me those kinds of cases do not call for exclusion of these officers from that kind of political activity.

There are clearly going to have to be some lines drawn between those extremes, and I am not sure exactly where the line is in any given case, but clearly the regulations should permit some political activity where there is no apparent or perceived conflict.

Mr D. R. Cooke: Would you agree with me that if there is any circumstance where a public servant should be restrained from political activity, it is a police officer, in view of the fact that we have situations elsewhere in the world where the closeness between the police and the administrations is such that freedom suffers and we must always be on guard against that happening?

Mr Roland: I think it depends on what administration you are talking about.

Mr D. R. Cooke: I know it is difficult.

Mr Roland: Take my board of education example. Can it be seriously said that they are serving on a board of education of some other municipality apart from the one you are in?

Mr D. R. Cooke: I do not have a problem with that. We have police officers on our board.

Mr Roland: It is those kinds of things. As you say, there is line-drawing to be done. I am not sure exactly in each instance where the line is, but it does not seem to me the line is at the point of saying no political activity of any kind.

Mr D. R. Cooke: I am still smarting a little from reading earlier that Mr Lymer has condemned our senior police force in this province and suggested it is influenced by politics. That seems to be the harshest criticism that you could make of a police force. It should not be influenced by politics in any way, shape or form when it is going about its duty of investigating and laying charges.

Mr Roland: There is no doubt about that.

Mr Philip: I have some questions of Mr Lymer and then perhaps a little later of some of the other witnesses.

With regard to section 49, which is the political activity clause, as you probably are aware, in this province public servants are faced with the same restrictions. I find it to be oppressive that a person could conceivably lose his or her job for taking part in a rally to condemn the government for not providing adequate day care. That could be considered political activity and he could be disciplined or indeed lose his job as a public servant. I am sure that you can think of other similar restrictions on you as a police officer with regard to your rights as a citizen to exercise your political rights.

I do not think anyone would argue about the right of a public service or a police force to protect itself from insider information being used against it, but can you think of examples where your officers have been restricted in their legitimate exercise as citizens by participating in an election on behalf of a candidate of their choice, be it municipal or otherwise?

Mr Lymer: At this particular point there have not been any. We have had police officers who have run for political office, and had they been voted into political office they would have been in a position of conflict of interest as a police officer. The circumstances under which it is done is that they have to take a leave of absence, other than for school board trustees, where they are not in conflict, and I can understand that. If they gain political office, then obviously they give up their right as a police officer to that occupation while they continue to hold that office.

I am not so sure that civil servants are prevented from demonstrating or showing up at a demonstration, particularly for themselves, for pension issues or anything like that. I do not think they are restricted. I do not think police officers really might be restricted from putting on a demonstration themselves at Queen's Park if they wanted to do so.

Mr Philip: I think you will find that the Public Service Act is very restrictive and that is why their union has asked for this very clause—so you are at one with the public servants of Ontario, or their representatives, in asking—to be better defined.

In fact, when I was a federal public servant, I could not use any information I might have from that ministry to attack the government, but I think that is where my restriction should end. I think you have made a good point on this.

I want to ask you some questions on some of the earlier points. Maybe the easiest way is to go recommendation by recommendation. I had a couple on A and B, but I do not want to take up too much time of the committee, so I will go to recommendation C. In this act there is an onus on the police to develop an employment equity/affirmative action program. At the same time, you are saying that anyone, I gather, who is a

permanent resident of Canada—in other words, a landed immigrant—should have a right to apply and be a member of the police force. Is that correct?

Mr Lymer: Yes, I am saying that. He may well have been a member of another police force.

Mr Philip: Sure. Is it your opinion, from the recruitment efforts of the Metropolitan Toronto Police Force, that removing a restriction of being a Canadian citizen might actually help the objectives of this bill, which states that each police force must develop a program to ensure that members of various communities become police officers? Would the whole idea of affirmative action or employment equity be assisted by doing what you are recommending in item C?

Mr Lymer: I think it would. I am all for employment equity. However, I am not for affirmative action in my understanding of what affirmative action is all about: that people have to be hired to meet that makeup of the force. Employment equity, as I understand it, is hiring on the basis of competency and promoting on the basis of competency the most qualified people who are available for that position.

1720

Mr Philip: I do not want to get into an argument over definitions of affirmative action, because there are probably as many definitions as there are people in the room, but in terms of the employment equity provisions, would it be assisted by recommendation C which you are asking for?

Mr Lymer: Yes, I think it would. The only proviso there is that if somebody has been here long enough to become a Canadian citizen and has not chosen to do that, then he is obviously not showing a real interest in becoming a Canadian.

Mr Philip: There may be certain circumstances where if they do become Canadian, even though they may be quite loyal, they may lose certain financial assets in another country, or other reasons, not reasons of disloyalty. Anyway, I see your recommendation.

Have you had experiences where perhaps there might be somebody, for example, very experienced in forensic police work, very well trained by Scotland Yard or by some other police force in another country, whom your police force could certainly use and whom you could not hire because of the requirement that the person be a Canadian? Do you personally have experiences that you can relate about that?

Mr Lymer: No, we have not. Our force is large enough, I believe, to be able to promote within itself people for those special qualifications that are needed. I think you are leading in now to maybe hiring people who are civilians and kind of parachuting them into the police force.

Mr Philip: Or somebody who is fairly experienced in another police force and who may have a skill that you would like to have and wish to make him—not necessarily parachuting, but you may want to hire him at an officer level for special types of work.

Mr Lymer: I think before that is done it has to be clearly demonstrated that there is nobody on that force who is capable of fulfilling that function. If there is not, then certainly we would have to give consideration to it.

Mr Philip: Probably the immigration laws would do that anyway without your having to do it.

With regard to recommendations E and F, in which you propose a compromise, have you discussed that compromise with the Metropolitan board?

Mr Lymer: No, we have not. I was not aware of what their submissions were until after they made their submissions.

Mr Philip: In the case of recommendation F, would you agree to a probation where a promotion transfer from one police force to another was at stake? In other words, if someone was a police officer in Peel and was offered a sergeant's position—I do not know all the ranks—in Metro Toronto, would you agree to at least allowing a probationary period, with the understanding that somebody may be a good police officer but may not necessarily have the leadership skills to be a superior?

Mr Lymer: First of all, I am in agreement with PAO that we are against lateral transfers from one force to another, particularly above the rank of constable, because what it tends to do is to stop promotional opportunities for members of that force and it is not fair to them. Forces should be able now, with the way that they can recruit people, to promote within their own police force.

Mr Philip: But in other professions, when one's spouse moves or gets a promotion in another jurisdiction, one moves with one's spouse. There may be reasons why someone at an officer level might want to transfer to another municipality because his or her spouse received a better-paying position in Sarnia or some other jurisdiction.

Mr Lymer: The main argument I would have against that is that promotional opportunities on police forces are limited at best. There are only so many people who can be promoted. We have a lot of people who retire as police constables and sergeants. There are not very many of them who make it to the top. Allowing lateral transfers above the rank of a constable, I think just negates that even further.

Mr Philip: Recommendation G at face value is one that I think, sitting here, I would have to have some sympathy for, but can you give me an example? It is nice to have a warm body that you can point to and say, "Here's this poor guy that's really being done in because of this kind of policy." Can you think of an officer who was perhaps, because of illness or a disability that happened to him or her, actually disadvantaged in a situation like this?

Mr Lymer: Yes, we have had officers—and there are lots of jobs that can be found on a police force the size of ours—where a police officer, because of his office and intelligence in communications, can be used doing exceptionally good work. We used to have police officers in communications bureaus anyway. That has now been taken away from us and civilians are doing that job.

What we are saying is that a police officer, particularly someone with outstanding service, length of service, should be accommodated and allowed to carry on his oath of office as a police officer and still function within that force and give good service to the community from the knowledge he has had as a police officer working out there on the street.

Mr Philip: I guess it seems to me that if we are going to ask private enterprise to do this kind of thing to their employees, maybe it is a good idea to start at home with public enterprise, the police being one of those public enterprises where we should practise what we preach. I thank you for the recommendation.

Mr Villeneuve: The Metropolitan Toronto Police Association agrees about section 83, concerning the withdrawal of complaints, but it also strongly advocates that complaints should not be withdrawn without the officer's consent. Perception becomes reality at times. I gather you probably receive a number of complaints that never go anywhere. Can you tell me how they are treated now and how you perceive the treatment of those would be upon the inception of this bill?

Mr Lymer: There are a lot of people in Metropolitan Toronto who have laid complaints. They have done it in the form of plea bargaining, because they have had a charge laid against them themselves. When their own case is dealt with, they do not wish to proceed any further with that complaint. There is no valid reason for withdrawing it on the complainant's part. He has not died, he is not sick, he has not transferred out of Metropolitan Toronto. The police officer, if he deems that he wants that to go to a full hearing, should have the right to say: "Yes, you complained about me. Now get in the witness box and be cross-examined."

Mr Villeneuve: Is that the way it is now?

Mr Lymer: No, it is not. The way it is now, as soon as the complainant wishes to withdraw the complaint, that is the end of it. The officer has no further redress and he is left with a cloud hanging over his head.

Mr Villeneuve: This is fairly common, I gather.

Mr Lymer: It is, yes.

Mr Villeneuve: You would like to see some corrective measures in this bill where the officer who has been accused at some point would have a chance to redress or clear the record.

Mr Lymer: I would.

Mr Villeneuve: Are the complaints under the present and existing laws left there? Are they wiped out; is it on his record; what happens?

Mr Lymer: He has a complaint registered against him, but there is no finding on it because the complaint is withdrawn and he has not had the opportunity of proving his innocence.

Mr Villeneuve: Interesting. Thank you.

The Chair: Thank you, gentlemen, for two very interesting and useful briefs. I know that they will be useful to members of the committee and to the Solicitor General, so on behalf of the committee members, thank you very much.

ONTARIO COUNCIL OF SIKHS

The Chair: Our next presenter will be Mr Bal from the Ontario Council of Sikhs. Mr Bal, as you are probably aware, we like to leave some time towards the end of your submission for questions from committee members, so if you can take that into account, we would appreciate it.

Mr Bal: Do we have a half an hour or 45 minutes?

The Chair: I believe the clerk has you in for 45 minutes, but we are running a little bit late. So if you can take that into account, we would appreciate it.

Before we get under way, Mr Bal, for the benefit of committee members, as you are aware, we are meeting in further session at 7 o'clock. We are going to break for about 45 minutes or an hour for a bite to eat. That will be around the corner in the

Thames Room. We would certainly like to keep the quorum here, just to let you know.

1730

Mr Philip: Is there somebody arranging for us to at least have access to a telephone to return calls and so forth? Is that possible?

The Chair: Mr Arnott, can we do that?

Clerk of the Committee: Okay.

Mr Philip: That will be helpful.

The Chair: Mr Bal, please proceed.

Mr Bal: The Ontario Council of Sikhs would like to thank the members of the standing committee on administration of justice for the opportunity to present this brief with respect to Bill 107, the Police Services Act.

The Ontario Council of Sikhs is a representative umbrella body of the Sikhs of Ontario. The council was founded in 1987 and is governed by up to 31 representatives of Sikh gurdwaras, Sikh organizations and individuals. We have made a number of representations to government and its agencies on such matters as religious education in the public schools, human rights, minority rights, discrimination, religious rights and generally on many provincial matters.

Our aims and objectives are as follows:

To promote, preserve and maintain Sikh religion, Sikh identity, Sikh culture and Sikh heritage;

To facilitate the integration of Ontario residents of Sikh descent in the Canadian society and to foster the retention and development of their cultural heritage within the framework of multiculturalism and promote goodwill, mutual co-operation between Canadians of all creeds;

To act as a medium of communication between the Sikh community in Ontario and government on matters related to Sikhs;

To provide and facilitate access to social and community services.

It is in pursuit of these aims and objectives that we the council submit the following to you.

Sikhism, the seventh largest and the youngest religion of the world, arose from the teachings of Guru Nanak Dev. He was followed by nine successors. The last guru, Guru Gobind Singh, decreed: "Henceforth, the religious book of the Sikhs will be the Guru. There shall be no other living guru after me. All spiritual leads should be taken from the teachings of Guru Granth Sahib," that is, the holy book of the Sikhs. "All political guidance shall come from the Panth," that is, the Sikhs as a corporate body.

The fundamental beliefs of Sikhism are there is only one God; all human beings are equal; Sikhs do not worship idols, tombs or graves; there is no fasting in Sikhism; in Sikhism body mortification is forbidden; Sikhs do not drink, smoke or consume any drugs or intoxicants; Sikhs practice equality of man and woman; there is no caste system in Sikhism.

Guru Gobind Singh, the 10th prophet, introduced the tradition of baptism. Baptism is taken by Sikhs in a ceremony which is performed in the presence of the Guru Granth Sahib, the Sikh holy book. After a person is baptized, he or she is required to follow the Sikh code of conduct. The Sikh code of conduct clearly states that a baptized Sikh must always wear the five Ks all the time.

The five emblems of Sikhism are called the five Ks because their common name in the Punjabi language begins with the consonant K.

The first emblem, the kirpan, is the very image of God. In the writings, Guru Gobind Singh and all utterances in the Sikh faith, kirpan is referred to the image of God. It symbolizes justice, freedom and truthfulness.

The second emblem, the kara, personifies the harmony of nature, the attachment to the Almighty and the fear of punishment. It also symbolizes the omnipresence of God.

The third emblem, the kesh, signifies acceptance of God, a vow to live for the love of God, a vow to seek immortality through contemplation and good deeds and a vow to dedicate mind, body and soul at the altar of truth, justice and freedom.

The fourth symbol, the kanga, is an affirmation to a social cause of cleanliness.

The fifth symbol, the kacha, apart from being a practical garment is a symbol of dedication to overcome the vices of human nature. It is an emblem of modesty and temperance, continence and tolerance.

The overall importance of the emblems is very clearly stated by the 10th prophet, Guru Gobind Singh, as follows:

"Know these five Ks to be the emblems of Sikhism,

"Under no condition can one be exempt from these,

"Kirpan and bracelet, drawer and comb—these four,

"Without hair, the fifth, all these emblems are meaningless."

Hence, Sikh emblems are fundamental of Sikh religion and cannot be separated.

The turban is undoubtedly an article of Sikh religion. The turban is an integral part of the kesh, long hair, one of the five emblems of Sikhism. Guru Granth Sahib, the holy book of the Sikhs, commands of a Sikh to wear the turban. It states, "Sabat Surat Dastor Sira," "Keep your hair intact and wear a turban." Really, with this commandment no further formulation, authority or witness is required. This institutionalization of the turban is unimpeachable and absolute.

The turban is a symbol of generosity, maturity, piety and truthfulness. Socially, the turban carries responsibility and duty. When the head of the family, the father, dies, the relatives and friends assemble and the ceremony of offering a turban to the deceased's elder son takes place. This means that henceforth he is to be responsible for conducting the family business and to manage the family affairs.

A person who renders selfless service to society is given a great honour by presentation of a turban which we call "saropa." Turbans are exchanged between two friends to eternalize their friendship and as a mark of respect for each other. Turbans are exchanged as symbols of enduring brotherhood.

A Sikh is proud of his religion, culture and heritage.

Sikhs arrived in Canada at the turn of the century. The first settlement of Sikhs in Canada in British Columbia is recorded in 1902. In 1914, Sikhs faced racial discrimination and were denied entry to Canada. The Komagata Maru episode will bear witness to this unworthy policy. The first Sikh gurdwara was built in Vancouver in 1907. It was only in the 1920s that Sikh Canadians were allowed to have their wives and children with them in Canada.

With the liberalization of immigration policy, Sikh professionals, along with others, chose Canada to be their country. There are around 80,000 Sikhs in Ontario and one can see them participating in all walks of life.

It is in light of this historic background of Sikhism and Sikh emblems we recommend that the five Ks of the Sikhs should be

recognized and integrated into the Police Services Act or that subsection 133(17) of the Police Services Act be strengthened or broadened to specifically mention the five Ks as part of the police uniform.

Many Sikh organizations have expressed their concern about the dress code regulation and have suggested ways to resolve the issue. The Sikh community deserves its respectful place in society and the time has come to settle the five Ks issue. Let us not allow any police force to hijack the issue and see it from its narrow perspective. Sikhs want to fully participate in the policing occupation.

Employment equity: We are of the opinion that the government's response to employment equity in police forces is very weak. The new act does emphasize employment equity for the police forces, but the mechanism to put it into practice is cumbersome and time consuming; that is, in case a municipal board is not complying with the employment equity provisions of the act.

No timetable to achieve employment equity is set. Population of visible minorities is increasing. This year at least 200,000 new immigrants will settle in Canada, and more than half will make their home in Ontario. Asia is the leading source area for immigrants and, once in Canada, all become members of visible minorities. At present, it is estimated that 9% of Ontario's population consists of visible minorities, while the figure in Toronto is estimated to be 20%.

The challenge before us is twofold. How can we achieve a proportionate percentage of visible minorities in all police forces and how can we uphold that percentage in the future?

We are of the opinion that employment equity can only be achieved by a mandatory timetable. By monitoring, inquiring and recommending changes in the employment equity plan of any specific police force and maybe by imposing penalties on chiefs of police, we will be creating an unhealthy environment. We will be creating more bureaucracy, hearings and reports. But we do not want more reports; we want action. We want to achieve employment equity and that is our objective.

We need a central recruiting agency to recruit police officers, with special emphasis on visible minorities. As mentioned earlier, we know what the percentage of visible minorities is in Ontario and cities across Ontario. Our challenge is to achieve that percentage of visible minorities in all police forces and thereafter hire a certain percentage of visible minorities every time there is additional hiring.

1740

We are of the opinion that participation of the community is very essential to achieve employment equity. We in the Sikh community have initiated a process. We have already made some significant progress with the Metropolitan Toronto Police, and efforts are under way to do a similar drive with Peel Regional Police and the Ontario Provincial Police. But because all the police forces have independent and separate recruiting units, we have to work separately with all of them. If there were only one central recruiting agency, we would have to deal with only one office. It would save time and money and, at the same time, bring better results.

If we are serious about the principle declared at the beginning of the new act, "the need to ensure that police forces are representative of the communities they serve," then we must develop and implement a workable plan. It must be action- and result-oriented: in the future, no more promises to do a better job, no more hearings to follow, no more recommendations to be discussed and implemented and no more false expectations

that somehow, without any clear-cut goals and timetables to achieve them, things will be better. We need a centralized action- and result-oriented program to achieve employment equity in a specified period of time.

Race relations training: Clause 3(2)(d) of the act addresses the concerns of the task force that a centralized approach be taken for the establishment of standards for the training and ongoing education of all police officers. We further emphasize that therein lies the crux of the problem: the absence of uniform standards by which the training of police is conducted. To this end, it is of some comfort that provision is made for cabinet to pass regulations in the area.

It would be of great comfort if draft regulations were issued that mollified some of the other concerns in the handling of race relations training. Foremost is that such training can best be effected through techniques encouraging learning of race relations issues through experimental or hands-on means rather than as is currently the practice, through a strict cognitive approach. As was suggested by the task force, community internship programs with attendant follow-up classroom teaching should become indispensable to any police officer curriculum.

We are in agreement with the police task force in its analysis that the effective teaching of teachers must be ensured before any attempt is made to train police officers. Otherwise, the danger that existing teaching techniques which have been formulated by non-experts may actually perpetuate stereotypes looms large. In this light the recommendation of the task force that a moratorium on race relations training be imposed so that an independent body be allowed to examine substitutional programs is of critical relevance and demands implementation. Such an independent body would solicit input from community groups and would ensure their actual involvement in subsequent training programs.

Since the goal of a race relations training program is to effect attitudinal change, then such a program must be seen by the pupils as being of relevance and providing them with measurable skills indispensable to their everyday tasks. The Solicitor General is therefore expected to provide by way of regulation for the mandatory taking of race relations programs by all members of police forces without regard to rank or experience.

A monitoring system, as suggested by the police task force, would assist new recruits in actually measuring the utility of understanding and appreciating cultural differences. Superior officers would be undertaking such programs on an ongoing basis. The entire police force would be shown by example the importance of such programs. The new regulations must therefore ensure that such training is conducted on a continual basis and not, as is the current practice, for a transitory period.

The task force noted the value of having officers take post-secondary courses in areas such as psychology, sociology and human relations in general. We agree with this recommendation but would be of the further view that funding must be provided by the minister and not by the individual officer. Otherwise, there may be a tendency to ignore such further education. Moreover, we are of the view that the best of such experience is by way of continual interaction with visible minorities.

Community relations: Success in implementing a race relations training program will depend largely on how integrated the police officer becomes in the community he or she serves. As the task force notes, community-based policing is more desirable to the existing reactive policing system in that the police are seen as having an interest in the overall welfare of the community rather than merely appearing on the scene at mo-

ments of crisis. By playing an active role in community-based symposia and by patrolling traditionally hostile areas where suspicion of police abounds, the police will gradually diminish the animosity directed towards them.

While the theory is sound and the goals admirable, it is difficult to conceive how such a system can be developed in the absence of mandatory provisions in the act which provide for the creation of race and ethnic relations units. The task force extols the virtues of such units which would be composed of both visible minority and other officers. This unit would be particularly sensitive to the frustrations of the community. The act must provide for positive commitments rather than simply requiring the chiefs of police to ensure that the police force provides community-oriented police services.

We repose our faith in the Solicitor General to create by force of regulation community consultation committees with which senior police officers will have to meet on a regular basis. It is important that frequent dialogue is mandated by way of prescribed time intervals for meetings and that the Solicitor General be apprised in a systematic manner of the progress of such consultations. It is also desirable that meetings take place in both police stations and community centres.

Of some considerable concern is the act's refusal to define discriminatory conduct as actionable conduct that is contrary to the professional ethics of a police officer. Modern sociological studies have made it easier to reduce to writing behaviour and attitudes that can be termed discriminatory. Avoiding this issue is akin to being wilfully blind to the rationale for overhauling the existing legislation.

We welcome some of the initiatives proposed by the task force. The proactive foot patrolling of sensitive areas by open-minded police officers is imperative. The officers need to establish rapport with youth from visible minorities, such contact being meaningful and developed on an ongoing basis. In light of the deep mistrust that currently exists, the Solicitor General must ensure that this opportunity is not only utilized but is undertaken by only the most tolerant and culturally aware officers.

One of the duties of the chief of police should be to interact with the media in a responsible manner. One of the greatest fears of the visible minorities is the potential for stereotyping that results from statistics released by the police officers through the media. Such statistics do incalculable damage, notwithstanding the good faith of both the media and the police force.

The Chair: Thank you. So far I have Mr Philip and Mr Smith indicating a desire to ask some questions.

Mr Philip: Mr Bal, as you are aware, I have raised this issue a number of times in the Legislature, not just with regard to the Solicitor General but also with regard to the Minister of Transportation, and indeed under employment safety regulations.

You suggest that there be an amendment guaranteeing the wearing of the five Ks under section 133, which is the regulatory system. I guess I have some concern with that, my concern being that the regulations are set behind closed doors by the Solicitor General and his staff. I wonder if it would be perhaps more acceptable to you if you were to simply make an amendment to section 48. Do you have a copy of the bill in front of you?

Mr Bal: I do not have it with me.

Mr Philip: Section 48 is the part that deals with employment equity. If we were to simply add a new section 48a saying that a member of a police force who is a member of the Sikh religion is entitled to wear the symbols of that religion while on duty, would that satisfy your requirement?

At the present time it can be a bar to the employment equity program. If one were to make it part of the employment equity program, then it would reinforce that section and would certainly mean that all police forces would have to adhere to that as part of their employment equity program. Would that be acceptable to you?

1750

Mr Bal: Yes. Let me go back a little bit and say that this is our dilemma, that one particular school board accepts the five Ks, another does not; one particular police force accepts the five Ks, another does not. We somehow have to go to each and every one of them and sell the same thing over and over again, and it is a very time-consuming proposition.

After the bill was introduced and we saw what was in there as far as the dress code and the five Ks are concerned, we had a couple of meetings with the Honourable Steven Offer on the issue, and some of our organizations—and the letters from them are in the brief—wrote letters to him as well expressing this concern. The assurances we got from Mr Offer at that time were that it is not only the Sikhs who have these concerns about their religious symbols, there are some other religions as well. But somehow our concerns are more in the limelight than any others, if there are any others.

Because of the dilemma we are having to face with different bodies at different times, we are of the point of view that somehow if it is incorporated into the Police Act, then it does not matter whether it is in Windsor or Ottawa or Toronto; anywhere in the province it will be acceptable, universally. So the assurance given to us by Mr Offer is that once it is put in the form of a regulation, it will be acceptable to all the police forces. But as I suggested in the brief, it is the concern of all of our community that if it becomes somehow a part of the act itself it will be more binding on the police forces. We definitely would like to see that happening as compared to having something in the regulations.

Mr Philip: I think your answer is yes.

Mr Bal: Yes. I was just giving you some background.

Mr Philip: I appreciate the background.

The Lewis task force, as recommendation 10, specifically addresses the issue and says that it should be part of the Police Act, yet for some reason or other the government has chosen to introduce an act without implementing that particular recommendation. Conceivably, it could come in the regulatory section, but we do not know what the regulations are yet.

Mr Bal: No, at this point we do not know what the regulation will be, how it will affect us, how it will be implemented, but if it is specifically mentioned in the Police Act itself, as per recommendation 10 of the Lewis task force and the brief we have given to Mr Offer, we will be delighted to see it becoming a part of the Police Act rather than just a regulation.

Mr Philip: One of the concerns you have expressed, and indeed that other groups have expressed, is the great amount of unknown in this bill, because practically anything of any significance is covered under section 133, which is the regulatory section. You have asked at one point in your brief that there be some kind of consultation process with regulations. Would it

make sense to have a sunset clause in this legislation that would require the government to come back to the Legislature after a period of two or three years, reintroduce its bill and have public hearings to decide how the bill is working, which would of course open it up to amendment if necessary?

Alternatively, one suggestion has been that since this is really an Ombudsman's function, there should be a select committee similar to the setting up of the select committee on the Ombudsman, where members of all three political parties, in a non-partisan way, would monitor the ongoing operations of the police complaints procedure, similar to the way in which we monitor the operations of the Ombudsman. At least by setting up a select committee, this could be done for a specific period of time. It might later be decided that they want it to be an ongoing function of the Legislature, but at least initially, for the first few years of its operation, have a committee of the Legislature that would have the duty of monitoring what is happening. So those are two possible proposals.

Mr Bal: Given the choice, I would go for the sunset clause, because it is my firm belief that if we plan a program that is action-oriented and result-oriented, and we do not sit down after a specified period of time to see how much we have achieved, it is a waste of time.

I mentioned in our brief the efforts we are putting in with the Metropolitan Toronto Police all these last five or 10 years. All the different police forces have been working on some sort of affirmative action program to bring in the visible minorities, but I never saw anything out on the street which is good for our community. I have not seen one particular police force coming out and saying, "Okay, Sikhs, come and join the police."

But since we are working with them, we plan what we are going to do in the next 10 days or 15 days or three months, and then it is action- and result-oriented. We sit down and we see how much we have achieved and how much we have not. That is the crux of my presentation here too, that whatever we do, it does not matter how we want to write it in words, but if it is not result-oriented and action-oriented, it is a waste of time, just like any other waste of time.

So given the choice and the questions you have put, I would prefer to go with the sunset clause, where we can sit down after a specified period of time and say: "Okay, this is what we thought we would have achieved in three months or six months or a year or so, but we haven't achieved that much. Why?" Then we revise it or rewrite it, it does not matter how we do it, but see if we can make it more practical after a specified period of time to make it more result-oriented.

Mr Philip: One final question. Gosh, I have so many final questions, but I will ask one final question, and I know we will probably have many conversations over the period of the next few months or years after this bill has gone through in whatever form.

Your organization has had a lot of experience with the Ontario Human Rights Commission. The human rights commission has the ability, as does the Ombudsman of Ontario, to initiate investigations on its own initiative. The human rights commissioner may notice a pattern taking place that he or she wishes to investigate. The same thing can happen, and indeed has happened, with the Ombudsman of Ontario. Since the police complaints commission set up under this bill is an Ombudsman function, do you feel that there should be the right of initiation by the police complaints commission, investigations on its own initiative?

Mr Bal: To be quite honest with you, I really have not studied that particular aspect of this act and policing at large in detail, so I really would not be in a position to comment on a question such as that.

Mr D. W. Smith: When you were going through your brief here, you mentioned that there were 80,000 Sikhs in Canada; I believe you said Canada. It is in the brief here as Ontario.

Mr Bal: Yes, there are 80,000 in Ontario.

Mr D. W. Smith: How many are there in Canada then?

Mr Bal: Approximately 250,000.

Mr D. W. Smith: If there are 80,000 in Ontario, approximately what percentage of them may live in Metro Toronto or the greater Toronto area? Would you have any idea on that?

Mr Bal: I would say a majority of them. A majority could be 51% or 75%, but we do not have any real figures to support what I say. We are taking up a project next month to see how many Sikhs there are and where they live, but I would say a good majority of them. I mean, go as far as Oshawa, Oakville, Brampton; I would say 80% of them live within this area. There are very few in Windsor, Kingston, Ottawa and then small cities across Ontario, but I would say 75% to 80% live in this area.

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Mr D. W. Smith: I presume there are quite a few cultures that would have those same numbers here in Ontario. In fact, I believe there are somewhere around 85 different cultures here in Ontario. If we are to do everything that you wish, as a Sikh community, do you believe we would be under the same obligation then to do for every other culture that may come to us and ask to have their particular dress, their particular religious code? Do you think we would be obligated, as a committee, to do all of their things or their requests?

Mr Bal: If it is a religious code, yes. If it is a culture, I would say we have room for negotiation and compromise.

Mr D. W. Smith: So strictly on religious basis, nothing to do with a culture or country?

Mr Bal: Correct.

Mr D. W. Smith: I will stop there. Mr Cooke, you have a question.

The Chair: Mr Cooke wants to have a supplementary on that. We will be just a little free with the time here.

Mr Philip: I know that your association deals with many other associations of various origins and beliefs. So to the best of your knowledge from your interaction with other groups, there would only be yours and possibly some of our native people that would like the right to wear, as police officers, their hair in a certain fashion?

Mr D. W. Smith: What about Muslims and Buddhists?

Mr Philip: The Muslims in no way have requested that.

The Chair: A question has been asked. Mr Bal, do you want to respond to the question first?

Mr Bal: There might be some other cultures which have some cultural things. To answer your question, I said it is only the religious things that we are talking about here, which are not subject to anybody's interpretation as to what they are and what

they are not. There might be some cultural groups who want to put on a specific thing or a specific dress in a specific way. But I am sure all of you have been watching the media for the last so many years and all you have heard about is the turban of the Sikhs and nothing else. If there is anything else, it is very insignificant and somehow it is not being caught in the limelight. The five Ks of the Sikhs, at both the local level and the national level, and the turban, you hear about them almost every day. Now some people in Calgary are taking the federal government to court for allowing the RCMP officers to wear a turban.

Mr D. R. Cooke: My questions arise from your discussion with Mr Philip and Mr Smith. I guess I was a little concerned too when you started talking about the Sikh religion being put into the legislation, because I do not think any of us here profess to be experts on all religions. Conceivably, a police force might order a Roman Catholic not to carry prayer beads into a particularly dangerous situation. I do not think you would endorse that. You are asking that a religious need be permitted as part of an employment equity program, so we just do not know where other problems might be involved. Is that correct?

I guess what I am getting at is I am looking at subsection 48(2). Mr Philip would like to see it in legislation. I do not have any serious problems as to where it is and it may well come in regulations, but I am looking at something which might read "an employment equity plan shall provide for the carrying out of any activity or wearing of any garb necessitated by the tradition of a recognized religion." Would that satisfy the concern?

Mr Bal: Anything which will allow it will satisfy us. My only concern is, the way it is now, Peel is doing something,

Toronto is doing something else and Windsor is doing something else, and we do not have any uniform policy. We, as a community, keep on going to 15 different police forces and 10 different school boards to sell them the same issue over and over again. It does not matter how we do it. We would love to see it in the act itself, but if you members and the government and the minister think the best way it can be handled is through the regulation and there will not be any problem, then if we have a sunset clause to see after three years that there was no problem in three years and so there will not be in the next 10 years, that will be fine.

Mr D. R. Cooke: The important thing is to make sure that there is no impediment on the basis of religion to complete activity within police forces. That is really what you are saying to us, I think. I appreciate how you are doing it because I think you have set out the rationale of your tradition very clearly here and that is appreciated.

Mr Bal: With everything I mentioned that has to do with the cultural, we have room to manoeuvre and make accommodation here and there. But a thing like that, I mean, it is not only our religion; any religion you take, that is the way it is.

The Chair: Thank you, Mr Bal, for coming before the committee with your brief and your comments and answers to the questions. On behalf of the members of the committee, I want to thank you for sharing your recommendations with us.

The committee is adjourned until 7 pm tonight.

The committee recessed at 1806.

EVENING SITTING

The committee resumed at 1903.

METROPOLITAN TORONTO POLICE FORCE

The Chair: The standing committee on administration of justice is now in session. The committee is considering Bill 107, the Police Services Act, 1989, and the Report of the Race Relations and Policing Task Force. Our first presenters this evening will be from the Metropolitan Toronto Police, Peter Scott, deputy chief, and Rusty Beauchesne, police legal adviser. Please proceed.

Deputy Chief Scott: First, I offer the apologies of Chief McCormack for not being here, but understandably he is tied up with the Nelson Mandela visit.

I am sure the government of the day in 1949 presented to the citizens of Ontario the then new Police Act with great passion, determination, sincerity and a vision of hope that its new act would provide directions for many future years. The new Police Services Act we are addressing today no doubt will last equally as long and requires careful and reasoned examination in order to provide legislation that addresses the policing of today's society.

This province has undergone vast changes in the police forces and the citizens we serve in the 40 years that have passed. It is with pride I state that the Metropolitan Toronto Police Force has taken a leadership role in responding to these changes.

The Metropolitan Toronto Police Force shares and supports the public's desire for needed revisions to the Police Act. The Police Services Act goes a long way to reflect the realities of the current policing service and provides a new direction for the future. As representatives of the Metropolitan Toronto Police Force, we appreciate the opportunity to share our comments on Bill 107 with you today. We believe that our changes will strengthen Bill 107 and benefit all those affected by the new Police Services Act.

The vast majority of this bill is not only agreeable to the Metropolitan Toronto Police Force, but welcome. It should be pointed out that major sections in the new act are modelled under the present practices within the Metropolitan Toronto Police Force. For example, the section pertaining to informal discipline has been in operation for over 20 years and the section pertaining to public complaints has been in practice for nine years. It is natural, therefore, that we support this bill in principle.

There are, however, some sections of Bill 107 in which we respectfully believe improvements can be made. These sections have been identified and our comments and recommendations have been presented in our brief, which we hope you will read and consider at your convenience. There are also other sections of this bill where we believe changes are crucial. In the time allotted today, members of the Metropolitan Toronto Police Force will speak specifically on these important sections. If you, the representatives of the Legislature, want to ensure that Bill 107 meets the needs of both the police and the community, I urge you to give careful consideration to the comments presented to you today and the written contents of our submission.

However, it should be noted that, in examining the new Police Services Act with a view to this presentation before the standing committee on the administration of justice, a major

obstacle in our review of the act is the lack of Police Services Act regulations. These regulations would not only qualify the Police Services Act but also place it into a practical, workable form.

It is noted that the regulations will have to be issued when the act is proclaimed in order that critical areas such as a code of conduct and discipline charges can be enforced. It is also noted that prescribed procedures for investigating complaints under part VI will also be included in the regulations. Until such procedures are in place, police forces will be unable to investigate complaints under this section. The regulations give form and substance to the Police Services Act. I note with concern that there is no knowledge of the contents of the regulation or no public forum in which to discuss their effect on the act. It is the view of the Metropolitan Toronto Police Force that analysing the proposed Police Services Act without simultaneously reviewing the regulations and their application thereto is difficult and indeed impractical.

As a command officer with the Metropolitan Toronto Police Force, I would like to make a few introductory comments on part VI of the Police Services Act, pertaining to public complaints.

This police force has long recognized that it cannot maintain widespread and public support, which it considers among its most precious assets, without public accountability. The Metropolitan Toronto Police Force must maintain personal and organizational credibility with the community at large and the officers of this force.

The new Police Services Act is introduced with a declaration of principles which include the importance of safeguarding the fundamental rights guaranteed by the Charter of Rights and Freedoms in 1981 and the Ontario Human Rights Code. We believe this guarantee applies equally both to our citizens and the police officers who serve our citizens.

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One of the grave concerns of the command officers of this force is that a police officer should have the same fundamental rights as any other citizen to lead a normal life when not on duty. His or her personal life should not be the subject of complaints under part VI of the Police Services Act. However, as this act reads, it does not give a police officer the right to a private life. The effect is that anything a police officer does, whether on or off duty, can form the basis of a public complaint.

This is not to say that the off-duty conduct of a police officer should never be subject to disciplinary action. Internal police discipline has and continues to look after such circumstances.

It is submitted that part VI of the Police Services Act was never intended to apply to the private lives of police officers. I suggest that the intent is to govern their conduct while acting in their official capacity as police officers.

I note that public complaint legislation in other jurisdictions fully recognizes the right to a private life for a police officer. For example, the Parliament of Canada, in its amendment to the Royal Canadian Mounted Police Act, 1986, created a system of public complaints. However, such complaints are limited to matters concerning the conduct in the performance of any duty or function under that act of any member or other person appointed or employed under the authority of that act.

It is a distortion, almost a perversion, of the intent of the legislation to make the system of public complaints serve the purpose of what amounts to an inquisition into every aspect of a police officer's private life. Therefore, I strongly urge you to give serious consideration to our response to part VI, public complaints, subsection 72(2), which addresses this concern.

We note too the absence in the legislation of a procedure which is directed to protect the police officer's rights when responding to a citizen's complaint. In our response to subsection 107(3), we have urged the inclusion of subsection 23(13) of the present Metropolitan Toronto Police Force Complaints Act. This section has been deleted from the new Police Services Act.

Further, we have recommended the inclusion of a procedure for responding to public complaints which has been used for the last four years within Metropolitan Toronto. This procedure was developed with the assistance of the present public complaints commissioner, Clare Lewis, and it has been working well, serving both the needs of the public while protecting a police officer's rights.

An effective complaints system must be credible, providing members of the public with an avenue for legitimate grievances against police officers. It must be kept as uncomplicated and understandable to the participants as possible. The Metropolitan Toronto Police Force has responded in this brief to the lack of protection for police officers. It is suggested that until the new Police Services Act is amended to contain these protections, a police officer will question the credibility, fairness and equity of the public complaints section of the new act.

Having experienced this type of legislation for the past eight years, I, on behalf of the chief and management of this force, firmly believe that if this government wishes to make a complaint system acceptable to members of our force and police forces throughout Ontario, then I strongly urge you to give serious consideration to the Metropolitan Toronto Police Force's submissions and hope to see them implemented as appropriate amendments to the present statute.

I will now turn over the presentation to Rusty Beauchesne, legal adviser to the Metropolitan Toronto Police Force, who will continue the presentation.

The Chair: Mr Beauchesne, if I can interrupt just for a minute, for the benefit of members of the committee, I wonder if you could indicate how you propose to use the balance of your time, because it does include time allocated to Mr Tonks, who is here at the present time, and we do try also to permit some time for questions. So could you indicate what you propose to do for the balance of the 45 minutes?

Mr Beauchesne: If I could just talk to Mr Tonks for a minute.

Deputy Chief Scott: We will continue our presentation, Mr Chairman, and you can ask questions. We have about another five or seven minutes and then we are open to questions. I am advised by the Metro chairman that he will need about seven to 10 minutes for his presentation, so that should leave ample time for questions.

Mr Beauchesne: As always, it is a pleasure for me to appear before this committee on behalf of the Metropolitan Toronto Police Force.

I should point out that the brief that you have before you was prepared for the most part prior to the introduction of the amendments last week by the Solicitor General. As such, in the interests of brevity I shall not comment on all the sections in the

brief but restrict my comments to a few areas which still cause the Metropolitan Toronto Police Force some concern. This is not to say that you should not take all of our comments in the brief into consideration when you deliberate on the final outcome of Bill 107.

If I might, I will first address the declaration of principles.

Although we support the concept of enumerating general principles, we, like the Ontario Association of Chiefs of Police, question the rationale of incorporating these principles into the enacting provisions of the Police Services Act rather than listing them in the preamble to the act.

Preambles are commonly found in various statutes and their purpose, I surmise, is to serve as guidelines later on for those who have to interpret what it was that the legislators intended to accomplish when they passed a certain law. I am thinking, of course, of judges, juries, scholars, adjudicators, members of police boards, police chiefs and police officers, among others.

I for one do not believe that it adds any greater force of law or impact by enacting the principles as part of the act. If I am wrong and it does give it greater force of law than it would as a preamble to the act, then I caution you that the shield which you are trying to establish may some day be used as a sword against various boards and officers. If these principles are to be interpreted as statutory responsibilities rather than as motherhood statements, there is always the possibility down the road that some astute counsel will argue that the board, the chief or the officers were negligent in that they failed to meet their statutory responsibilities. Without wishing to comment on the likelihood of the success of such arguments, I can assure you that by placing these principles in the preamble you would eliminate any such arguments down the road.

I also note in passing the use of the word "ensure" in the first principle enunciated. "Ensure" is defined in the dictionary as "to make certain," which in policing may not always be possible. As such, I respectfully submit that the word "ensure" should be amended by introducing a more appropriate word such as "endeavour." Failure to implement either of those recommendations may well leave police forces open to criticism and possible unrealistic claims in the courts in the near future.

Failure to provide police services: Bill 107, you will notice, does not define the scope of police services, yet subsection 9(2) of the bill speaks of the authority of the Ontario Civilian Commission on Police Services to direct a board to take measures to rectify what the commission deems a failure to provide adequate and effective police services. Left to its widest interpretation, I suppose, police services could include, for example, court security, bylaw enforcement officers, programs such as Reduce Impaired Driving Everywhere programs, etc.

If it does include, for example, court security, then there may be a possible conflict. Bill 187, which came into force on 1 January of this year, amended the present Police Act by adding section 57a dealing with court security. During discussions before this very committee a year ago or so, we were assured that the final determination as to what constituted sufficient and proper security in the courts rested not with the Solicitor General, Attorney General, judges, etc., but with the local boards.

By virtue of paragraph 145(1)1 of the bill before you, section 57a of the present Police Act is carried through in the Police Services Act, therefore maintaining its legal status. Therefore, while one section of the act seems to state that the board has final authority, the Solicitor General has now introduced subsection 9(2) of the bill, which would appear on its

face, at least, to allow the commission to overrule the decisions of the board relative to proper court security measures.

We just wonder if this is an example of getting through the back door what one normally cannot get through the front door. This begs the question of whether there are likely to be more surprises down the road as to what constitutes adequate and effective police services. Personally, I prefer the Holiday Inn slogan of "No Surprise is the Best Surprise."

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The word "emergency" is found in various sections of the bill in a context that is somewhat new to us. For example, in section 9 the Attorney General, through his representative the crown attorney, can under any circumstances, the commission can under some circumstances and the board can under any circumstances request the assistance of the OPP. However, the chief of police can only so request if an emergency exists.

We are curious as to why. In the past there have been numerous occasions when the chief of one force has called upon the assistance of the OPP or another municipal force. This is normally to assist with certain types of investigations and certainly not in circumstances which would normally constitute an emergency.

The word "emergency" also appears in the amended version of clause 52(4)(a) and in section 55. Without clarification as to what constitutes an emergency, one can envisage possible abuses or even unlawful use of auxiliary police officers in the future.

As such, we find ourselves supporting the position of the Police Association of Ontario on pages 17 to 24 of its brief, where it gives many valid reasons for defining the terms "special circumstances" and "emergency."

Probationary period: Many of the deponents before you have already recommended that the probationary period should remain 18 months rather than 12 months, as suggested in subsection 44(1). We would like to go one step further and suggest that this should be a period of 18 months of unbroken service. Past experience has shown that it is often difficult to maintain constant and consistent supervision to properly evaluate a new recruit. This is often due to sickness or injury during the said probationary period.

Secondary activities: Subsection 46(3) seems to place the onus on the officer to determine if the type of secondary activity conflicts with the provisions of the act found in subsection 46(1). We believe that it is totally absurd to remove the requirement of the chief's consent prior to the secondary activity being undertaken. It is a common complaint of police managers today that policing has become the secondary employment of certain officers who spend as many hours practising other occupations. Surely an amendment to this section is a must, in our minds, if one is to prevent abuses which some day may well bring the administration of the police force into disrepute. Failure to amend the legislation only begs future labour-management conflicts.

I will speak about search warrants. I can personally attest that there have been many instances in the past where police forces were advised that they could not obtain a search warrant for the purposes of pursuing a Police Act investigation by virtue that there was not any specific provision to do so in the present Police Act. Recently, armed with a differing opinion, our officers were advised to apply for such warrants under the general warrants provisions of the Provincial Offences Act and we have been successful on two occasions. These search warrants are a

great investigative tool and I would respectfully submit that such a provision find its way into the bill or future regulations.

Public complaints: We note with interest that many of the definitions found in the present public complaints act do not find their way into this bill. For example, "complaint" is not defined.

A few months ago, during hearings before this committee on Bill 4, An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984, I made lengthy arguments to support the recommendation that a complaint should be defined as "misconduct by a police officer whilst in the performance or purported performance of his duties." Obviously these arguments fell on deaf ears, yet it is the most appropriate way to deal with the issue of officers' private lives, which Deputy Chief Scott has addressed with you in his opening comments.

Off-duty conduct which brings discredit to the police force is already subject to stiff disciplinary procedures under the Police Act. I respectfully submit to you that the complaints act was never intended and should never be intended to apply to non-police-related activities of police officers, but rather it was intended to govern their conduct while acting or purporting to act in their official capacity. If you fail to amend the bill by incorporating the recommended definition of a complaint, you will leave police officers across this province in a very disadvantaged and unfair position. An off-duty officer not acting in any police capacity who gets involved in a dispute with his neighbour may subsequently find himself the subject of a complaint under this part of the bill. Such complaints, I am advised, have recently been made for domestic disputes, neighbour disputes and matrimonial separations.

After my presentation on this issue on Bill 4, the late Dalton McGuinty, who always sat at the very end of this table, took the deputy and me aside to discuss this issue a little further. I told him that in accordance with the interpretation of the present act, a police officer on holiday in Greece who got involved in breaking up a fight could eventually be the subject of a complaint being lodged against him in Toronto by an involved party who was on the same trip. Mr McGuinty was most disturbed and could not believe that the legislation was being stretched that far. Unfortunately, he is not here today to influence you in your deliberations, but I urge you to ask yourselves whether this is not stretching the ambit of the legislation a bit far and whether it is fair and equitable to the officers.

In that vein, I ask you to pay special attention to the comments made by Connie Boyden to you a few days ago about the necessity of a corrective system being perceived to be fair and unbiased for everyone concerned if it is to be accepted. I submit that her comments should have even greater impact because they are made by an independent third party and are based on empirical research which she conducted for her master's degree.

I would also like to point out that my own review of the debates in Hansard leading to the formation of the first public complaints act in 1981 and since has failed to reveal any indication that the legislators ever intended for this type of control over officers' private lives.

The deputy chief has already mentioned the legislation of the RCMP, and also there is legislation in Manitoba dealing with this issue and they have recognized this right. These acts are further explored in my presentation on Bill 4, and I am sure that Mr Arnott can make copies available to you, if you so wish, for your deliberations. Why should a police officer in Ontario be treated differently than one in Manitoba or an RCMP officer anywhere in Canada?

As to the rest of part VI of the bill, I believe that the Solicitor General's legislative drafters should give careful consideration to our comments on that part in the brief. No other part of the bill is likely to cause more unrest and turmoil, not to mention the effect on morale, than part VI.

This is a very costly system to the Metropolitan Toronto Police Force, approximately \$4,000 per complaint to investigate last year, a total cost of \$1.6 million in Metropolitan Toronto alone. The least that we can ask for is that it should not be ambiguous, unworkable and unfair to all concerned.

Our brief and our comments are intended to be constructive rather than obstructionist. They are meant to engender some thought-provoking process in your minds while you deliberate on the final outcome of this bill. Please remember that by virtue of the demands of the profession, police officers, from police cadets to the chief of police, will inevitably from time to time incur the displeasure of those against whom they are obliged to enforce the laws. We acknowledge that you have a difficult task before you of legislating a system of rules which will ensure that the members of our communities receive the best policing services available. However, we urge you not to develop a system which will handcuff police officers from carrying out their duties to the best of their ability in a fair and impartial manner.

Last, we wish to support former recommendations—I believe the Metropolitan Toronto Police Association made the same recommendation—that the Police Services Act be reviewed at specific intervals. We believe the first review should take place in no more than one year after the proclamation date. Hopefully, if we have all done our homework, minor amendments should be all that are required at that time, all of which is respectfully submitted.

MUNICIPALITY OF METROPOLITAN TORONTO

The Chair: Chairman Tonks, did you wish to proceed with your presentation?

Chairman Tonks: Yes, thank you very much. I am very pleased to come before your committee to present the position of Metropolitan Toronto council with respect to Bill 107.

The provision of policing services in a large, complex and diverse community such as Metropolitan Toronto is indeed a challenge. We have the largest municipal police force in Canada, serving a community which is one of the most multiracial and multicultural in the world.

Our police officers must be provided with the necessary resources and support to ensure high standards in policing services. In discharging their functions, they must adhere to the fundamental values of our society with respect to individual rights and freedoms, civil liberties and self-determination of communities. More and more, law enforcement is only one aspect, albeit a major one, of policing services. Excellence in policing services must also encompass crime prevention, enhanced police and racial minority relations, public education and partnership with community organizations, service providers and other institutions. I believe that these are the expectations of Metropolitan Toronto and its communities.

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Overall, the police force in Metropolitan Toronto is very professional and competent and I have full confidence that the public interests of the community are being served. This is not to deny that from time to time problems occur with the conduct of individual police officers. Procedures and mechanisms are currently in place to address expeditiously specific cases where

they are identified, and even these mechanisms are presently under extensive review.

To ensure that police services are equitably rendered regardless of colour, race or creed, I believe we must maintain effective communication between the police and the community and support checks and balances in the system.

At the Metro council meeting of 7 and 8 June 1990, there were extensive deliberations on those aspects of Bill 107 which addressed the issues of responsibility and accountability, financing and general principles and objectives which govern service standards. In an accompanying report, council also considered the Report of Race Relations and Policing Task Force, the Lewis report. I understand that the Metro clerk has forwarded these reports and decisions of council to the clerk of your standing committee.

At this hearing, I would like to highlight the major areas of recommendation by Metropolitan council.

First, we are pleased to note that Bill 107 reflects the general spirit and policy directions of the Report of Race Relations and Policing Task Force. Accordingly, the necessary policy framework will exist to ensure that policing services continue to be improved and enhanced based on principles of community-based policing.

Responsibility and accountability: The proposed act moves policing from an enforcement focus to a service focus. The Municipality of Metropolitan Toronto is supportive of this overall philosophical direction, as it is consistent with previous Metro council positions on the role of the police commission and will innovate upon those initiatives which the police commission has already implemented.

On the question of accountability, we share the concerns expressed by the Association of Municipalities of Ontario and the Regional Chairmen of Ontario. Bill 107 does not recognize the recommendations of the province's own regional government review commissions, which favour greater municipal control over the policies and budgets of police forces in Ontario. On the contrary, the proposed legislation provides that all municipal police forces will be subject to the control of municipal police services boards, governed by a majority of provincial appointees, with the chairman of the board appointed by the province. Moreover, final control of police budgets will rest with the new provincially appointed Ontario Civilian Commission on Police Services.

Direct and effective accountability requires that those who are responsible for a service must also be delegated management authority over that service. This position is reasonable: that is, either that policing be explicitly recognized as a provincial service and be financed by the provincial government or that Bill 107 be amended to eliminate provincial majority on municipal police services boards and the right to override municipal approval of police budgets.

Financing: In the area of financing, unfortunately, the new bill, as with the old Police Act, limits a municipality's ability to control its police expenditures. In the event of a dispute between the municipal police service board and the municipal council on the police budget, the final authority for such police budget will rest with the Ontario Civilian Commission on Police Services.

For many municipalities, police service expenditures represent one of the largest budget items. In the case of Metropolitan Toronto, the 1990 police budget is \$452.7 million, representing 45.7% of the net expenditures of the corporation. Given this significant size of expenditure, it is not appropriate that Metro

has little or no control over the final decision on the police budget.

AMO's position is that municipal councils must have final authority over police budgets. The presentation from the Regional Chairmen of Ontario noted also that if municipal councils are to be fiscally responsible, they must have the authority to make budget tradeoffs between all municipal services and programs, including police services. This is a reasonable position.

We therefore recommend that: a majority of the members of the police services board be appointed by Metropolitan Toronto council; the chair of the police services board be chosen from the members of the board by the board; the municipal police services board advise, on a regular basis, Metropolitan council on the activities of the police force; and the police services board submit its budget to Metropolitan council for approval, in the same manner as other departments or agencies and that the right of the Ontario Civilian Commission on Police Services to arbitrate budgetary matters be rescinded.

Service standards and structures: As indicated earlier, a prevailing feature of the bill is greater provincial control over the provision of police services. The new obligations of the Solicitor General would include responsibilities to monitor police forces to ensure that adequate and effective police services are provided and to ensure that they comply with prescribed standards of service.

The Metropolitan Toronto Board of Commissioners of Police examined this new provision and concurs that it is the role of the province to establish standards for police services. However, the board also expressed concern about the prescription of new standards of police services centrally by the province, which may not reflect the needs or values of a local community. We concur with the board's recommendation that no new area of service or standard of service be prescribed by the province without first having the input of local boards.

At the deliberations of council, particular attention was directed to the following aspects of policing services: (a) the Ontario race relations and policing review board, as proposed by the Race Relations and Policing Task Force; (b) the special investigations unit; (c) the public complaints system; (d) employment equity and training; and (e) requirement for reporting the unholstering of service revolvers.

First let us deal with the Ontario race relations and policing review board. We recognize that the concept of a review board has not been incorporated into Bill 107. In keeping with our concern that more direct accountability must be at the municipal level, we believe that the monitoring, review and audit functions, as described in the Lewis report, could be met by the establishment of a race relations steering committee at the Metro level. Our standing committee, the community services and housing committee, will be inviting deputations on this matter soon, with a report back to council by mid-August.

The special investigations unit: We concur with the establishment of a special investigations unit, headed by a civilian, for the investigation of incidents involving serious injury or death. As the Solicitor General is responsible for prescribing service standards, it is appropriate that this unit be under the jurisdiction of the Ministry of the Solicitor General.

The public complaints system: Metro council is of the opinion that further improvements can be made to our existing public complaints system. There must be easy, open access to the system to ensure that legitimate concerns of individuals and the community are heard.

Specifically, we make the following recommendations: that all investigations of civilian complaints for disciplinary purposes be conducted by the office of the independent complaints commissioner; that the independent complaints commissioner have the power to initiate complaints; that whether or not a complaint has been filed, the independent complaints commissioner should have the power to initiate audits of the investigative and prosecutorial practices and policies of the police; and that Bill 107 explicitly provide that none of the investigators be current members of any police department and, in the case of former members, that they be explicitly forbidden to be involved in matters dealing with their former departments.

Employment equity: The employment equity provisions of the bill are consistent with the goals and objectives of the equal employment opportunity division's initiatives of Metropolitan Toronto. Metro is committed to ensuring that its workforce in the departments, agencies, boards and commissions reflect the racial diversity of the community. The Metropolitan Toronto Police already has an employment equity strategy under way.

Training: Fundamentally, in order that our police force continues to be highly competent and professional, the training programs for the police officers must be evaluated and enhanced on a regular basis. Race relations training must be an integral part of the basic police training program.

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Great strides have been made in training programs. We would suggest that consideration be given to the feasibility of integrating significant portions of the current core syllabus of the Ontario Police College into community college and university programs. In addition, there may be a need to review the level of education required for entry into police services.

Requirement for reporting the unholstering of service revolvers: Metro council had considerable discussion on this matter. Certainly there is a validity in the call for rigorous controls over the use of weapons by the police force. My position, along with that of the majority of Metro council, is that control mechanisms do exist currently. There may be a need to make improvements, but they should not be done hastily without looking at the ramifications of change to the existing policies and operations.

Therefore, Metro council has requested that "the matter of reporting the unholstering of service revolvers be referred to the chief of police, the board of commissioners of police and the police association for a report thereon to the legislation and licensing committee within two months' time. We have also asked that the experiences and practices of other police forces in Canada and the United States, such as Thunder Bay and Atlanta, Georgia, be examined."

Metropolitan Toronto is a rapidly changing, complex community. Part of this complexity results from the multiracial and multicultural dimension. This diversity has certainly contributed immensely to the richness and vitality of the city. At the same time Metro Toronto, like other thriving and growing urban centres, cannot escape the big city problems of drugs, crimes and violence.

Our police force is at the forefront of dealing with these problems. As I mentioned at the outset, I do believe that the Metropolitan Toronto Police Force meets these challenges in a highly professional and competent manner. This is not to deny that some problems do exist in relationships between the police and segments of the community. The immediate concern is the relationships between the police and a segment of the black community.

In my view the way to deal with the problem, either perceived or real, is first to explore the extent to which that problem exists. Then it is important that opportunities are provided for the community and the police to work together to develop joint solutions.

I also recognize that unfortunately there are racist attitudes in our community, and the police force as an institution is not exempt. If left unaddressed, this aspect of racism leads to mistrust, fear and a breakdown of communications between individuals, groups and institutions. In particular, as it relates to the police force, this type of attitude will alienate the police from those they are to serve. This must not happen.

I am committed to working with Chief McCormack and the Metropolitan Toronto Board of Commissioners of Police to ensure that positive relations are built with members of diverse racial and cultural communities, and that our police force treats all individuals with the same respect, irrespective of race, colour or creed.

Finally, Mr Chairman, I wish you and your committee Godspeed as you come to grips with an extremely important aspect of those relationships that we have talked about. It is a great task, but when I look at the future and I see it in the experiences of cities similar to Metropolitan Toronto, let me tell you that there is no more serious work you could be involved in than those relationships that exist between the police and the community they serve.

Mr D. R. Cooke: They were both interesting presentations. Mr Tonks, you indicated you want to have some more research into the issue of unholstered service revolvers being drawn. Mr Scott, do you agree with him or not?

Deputy Chief Scott: I think the research could be advantageous. Nobody can deny that extra knowledge about the situation and what happens is interesting. I believe that research into this matter will really reassure the community in many ways, but I do not wish to prejudice your research. So I have no objection to further research.

Mr D. R. Cooke: I come from a community that has 550 policemen. It is not a small community in that sense. The chief, Harold Basse—he has been chief for more than 10 years—actually approached me and pointed out that they have regulations regarding removal of guns from holsters. They have been in effect for more than a decade. They are working extremely well and there are no problems. Are there problems in Atlanta, Georgia, and Thunder Bay that we should be aware of?

Chairman Tonks: I am not aware, if I may answer—

Mr D. R. Cooke: Sure. You raised it.

Chairman Tonks: I am not aware, and that is one of the things we want to have a look at. We want to look at their experience.

You raise a good point when you talk about your community. I am not sure just what procedures were used with respect to the regulations or the standing orders that were established through your chief.

Mr D. R. Cooke: If a policeman removes his gun from a holster, he has to fill out a number of forms and he has to explain in great detail why he did it. There is no downside to it at all. The only downside I have heard is that it suggests that in facing a life-threatening situation, he may not do it because he does not want to fill out the forms, and I just do not buy that.

Chairman Tonks: I am not going to suggest that this is the only reason. I think there are cases where you would like to know what the use of the statistics is going to be with respect to those reports that are going to be filled out. I think it is reasonable to suggest that the police association should be consulted if they have concerns with respect to the use of those statistics. You can appreciate, Mr Cooke, that the community generally is concerned about the use of statistics. So I would suggest that nothing less should be the concern with respect to the police. I think that is the first thing.

The second thing is, how would it contribute with respect to the method of implementation? I think it is very important that you not implement changes of this nature, if you will pardon the pun, with a gun-barrel approach. I think it is important that you consult with the people who feel most affected by any change in legislation. What I am suggesting is that our two months will give us an opportunity to dialogue with the chief and the association of chiefs. I think what you may be interested in is what the effect of an unholstering criterion is going to be across the whole province, not just in Metropolitan Toronto.

I think you will recall, with respect to the citizens' complaints innovation, that one of the concerns was that it was not province-wide and that the police felt put upon for that in Metropolitan Toronto. Now what you are doing is bringing it into use right across the province and with criteria that are universal, if you will.

I think we have reached the point, in terms of unholstering and policies and procedures, and changes to the regulations that reflect the use of firearms, where they should be given consideration as if they were going to be universally applied across the province also. They are that serious.

Mr D. R. Cooke: I have a number of other questions.

Chairman Tonks: I will try to make the answers shorter.

The Chair: If we have the consent of the committee, we can extend the time for questions, but we do have 20 minutes for questions and you have used up seven or eight now.

Mr D. R. Cooke: I am sorry. Just briefly, Mr Scott, you have not made any comment on section 78. When you are dealing with a citizen whom you suspect of something, I take it the first thing you do not do is to go and raise with that citizen the fact that you intend to investigate him. In other words, good police work involves doing the investigation in the absence of the knowledge of the suspect. Is that not fair?

Deputy Chief Scott: In many cases, yes.

Mr D. R. Cooke: Similarly, if you were doing an internal investigation of a police officer, you would not let that police officer know you were assembling the evidence until you had the evidence assembled. Is that not correct?

Deputy Chief Scott: There is always a time in an investigation where you have to tell the person or confront the person and get his response to it.

Mr D. R. Cooke: The best time, though, is when you have the evidence.

Deputy Chief Scott: It all depends. Generally speaking, I would concur with that approach.

Mr D. R. Cooke: Section 78 seems to suggest that as soon as you receive a complaint, you have to forthwith notify the police officer and then you can start an investigation. Would

you agree with me that you might be farther ahead in pursuing that investigation if you did not have to notify the officer first?

Deputy Chief Scott: I think, in the harsh reality and practicality, that the vast majority of complaints—we will look at the complaints system. I get about 800 complaints a year in Metropolitan Toronto and we contact about 8.5 million people in some form or another, and some of that is under adverse circumstances, summonses and so forth. It means that every time we contact the public, one out of every 10,000 contacts ends up in a complaint. In those complaints, a great number are individual contacts where you are dealing with summonses and tags—"I should not have been tagged"—and those kinds of things. There is nowhere you can get evidence.

The evidence normally is gathered right at the scene. If a man comes in and says, "I have been assaulted by a police officer," you get the evidence, photograph his injuries, take him to hospital and those types of things. And then what do you do? You really have to go to the police officer to indicate why.

Normally, without that notification to a police officer that there is (a) a complaint lodged against him and (b) to ask him to give the explanation with regard to it—those types of things happen. In fact I write off every year usually around 100 or 110 complaints as frivolous, vexatious and made in bad faith. Sometimes a police officer is not on duty at the time or is in some other location.

Mr D. R. Cooke: I have no problem with what you are saying, but is there any reason why you would have to notify the police officer before you commenced an investigation? I can understand other circumstances where you do not have any evidence and you just want to—

Deputy Chief Scott: At appropriate times. I believe section 78 gives you the option. If it is prejudicial to the investigation, you do not notify the police officer.

Mr D. R. Cooke: It does not give you—

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The Chair: I am going to have to cut it off and if we allow some additional time, we will do another round after everyone has had a chance.

Mr Kanter: I would like ask a couple of questions on the Municipal Police Service Board, the successor to the Ontario Police Commission. One concerns representation and the other concerns the power of checks and balances kind of thing. With respect to representation, right now there would be a majority—four provincial, three municipal. That would continue for Metro. It is my understanding, having been a member of Metropolitan Toronto council at one point, that Metro has a policy that Metro representatives on agencies, boards and commissions, like the police commission or this new board, must be elected members of Metro council.

Chairman Tonks: That is right.

Mr Kanter: Does that not cause some difficulty, if one of the objectives, one of the principles of the act is representing the community, the multicultural, multiracial makeup of the community? Does that not cause some difficulty, given Metro's restriction to elected members? For example, there might be an outstanding member of the community who might be a member of a minority group, might be an academic or might have some budgetary or other expertise about policing but who would be precluded from serving as a municipal representative because that person was not an elected member of council.

Chairman Tonks: That point was raised in debate and I guess, like everything, it is a question of attempting to satisfy the objective of accountability through the representative procedure. You are right that the difficulty is that you have a Metropolitan council which does not reflect, let's say, the racial makeup, so you would have a problem with that.

Mr Kanter: Would it not be fair to say that at least in the past the provincial appointments have reflected to a far greater extent gender balance and minority group representation? Have the provincial appointments not reflected that much more substantially than the Metro appointments?

Chairman Tonks: That is true, but I think that when you look at the structures the Lewis commission is advocating, there are roles in the area of race relations and so on that are checks and balances and that countervail the problem that might be arrived at because you did not simply have a racial representation. I think sometimes we put too much emphasis on appearances.

Mr Kanter: My final question relates to the relative roles of the police commission and the chief of the police department. We have an extract before us—I think all members have it—where the police commission was expressing some interest in a recent amendment proposed by the Solicitor General that, "The board shall not direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force." I am wondering if you could explain, I guess as a member of the police commission, has the—

Mr Philip: I will draft one for you if you really want, if you need some help.

Mr Kanter: Maybe there is some incorrect information contained here. Has the Solicitor General introduced such an amendment about not directing the chief of police with respect to specific operational decisions? I do not have the list here with me today.

Hon Mr Offer: That has been introduced, yes.

Mr Kanter: Then let me go back to my question. Is there a concern on your part, as a member of the police commission, that such an amendment might be unduly restrictive of the police commission?

Chairman Tonks: I would have to have a look at it. I really cannot give you an opinion on that off the top of my head. I think it is draft legislation and everyone has the opportunity to reflect on it. I imagine it will be going to committee, the same as this. I would rather not reply to that until I have had an opportunity of looking at the legislation.

Mr Kanter: Did you support this motion on the police commission? We had a letter here that indicated the police commission, as a whole, supported this expression of, I guess, seeking clarification.

Chairman Tonks: If it was a letter seeking clarification, that is different than requesting specific legislation. I cannot relate to the correspondence and I cannot relate to the proposed legislation, so I really find it difficult to answer your question.

Interjection.

Chairman Tonks: I am informed by Deputy Chief Scott that it was at the meeting last Thursday. I was in Istanbul—no, in Paris, last Thursday. I did not attend that meeting.

Mr Kanter: Now I recall seeing you in another venue and trying very hard to win something.

Chairman Tonks: That is right.

Mr Kanter: I appreciate it.

Chairman Tonks: I will not say that I wish I was there. I am very pleased to be here, obviously. But I am sorry, I cannot relate to that because I have not even seen the context within which that was put forward.

Mr Kanter: I did not realize you were not at that meeting and I can understand your reluctance to comment under those circumstances. I had forgotten you were in other places at that time.

Mr D. W. Smith: I will try to keep mine short. I think it was Mr Beauchesne who was talking about "permanent resident" and "landed immigrant." What real difference do you think there would be between "permanent resident" and, as you want it changed to read, "landed immigrant." How much difference is there in those two terminologies?

Mr Beauchesne: I do not think I dealt with that issue myself. I think you might find it in a brief. I am told the deputy wants to answer that question.

Mr D. W. Smith: It is definitely in the brief.

Deputy Chief Scott: I believe we did address it in a brief.

Mr D. W. Smith: Is there any difference really between a permanent resident and a landed immigrant?

Deputy Chief Scott: We believe that it will make people of ethnic origin, who we are targeting with our employment equity program, available sooner. Also, we believe that probably the only way we can get sufficient visible minority representation on our police force is that eventually we will have to go to other countries to recruit. We have gone to the east coast and we have gone to England to recruit, and we believe that probably we will have to go to other countries. At the present time we are looking at Hong Kong because of the situation there.

First of all, we do not have to convince them to be police officers; they are police officers already. The second thing is that the view would then be to an assisted passage of some kind in order to get the visible minority representation on our police force.

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Mr D. W. Smith: I think Mr Beauchesne talked about secondary activities with the police. Does that happen in 50% of the police, 80%, 10%? Do they have second jobs?

Deputy Chief Scott: We do not have any figures in regard to our total number of people engaged in secondary employment, but it does give us some concern. Typically, the skills the police officer brings into it normally start to move into an area where his job may be compromised. Therefore, we would vehemently recommend to you that the approval for secondary employment be made by the chief, not at the discretion of the police officer who, under the present legislation, has to make a judgement call in his own mind whether this conflicts with his occupation. Especially when you have the added burden of high housing costs and the desire to make money, he may err on the side of saying it does not conflict. So we would really like to have that control, and I believe it is essential.

Mr Beauchesne: If I may just continue on that, you asked me if there had been an increase. Perhaps in recent years, with the shortening of the work week by increasing the number of hours per day that the officers are working to 10 and, in some police departments now, 12 hours per day, this gives the officer the opportunity to have six and seven days off in succession. These opportunities did not exist five, six years ago, before these shortened work weeks were established. So I think, yes, there has been an increase in the secondary activity in the last five or six years or so.

Mr D. W. Smith: What might some of these secondary jobs be?

Mr Beauchesne: Plumber, electrician, tour director, you name it.

Mr D. W. Smith: Tradesmen?

Mr Beauchesne: That is right.

Mr D. W. Smith: The one thing I keep hearing every time we hear different presentations, and I have been on this committee since it started, is that there seems to be a real difference between the elected people and the police as to the provincial appointees. The police believe that the majority should be provincial appointees and the elected people think it should be municipally majority elected. Is this a real hard issue with all the police forces across Ontario? Maybe anyone can take a shot at this one, but I hear it very definitely; the elected want control of the commissions and the police think the province should have control of the commissions in numbers or bodies.

Chairman Tonks: From an elected perspective, it is a theme that is consistent with both the Association of Municipalities of Ontario and the regional chairmen. They consistently have taken that approach historically. Without getting into the substantive issues, other than the democratic relationship over he or she who pays the piper calls the tune, I think that is really at the root of the issue. That is from an elected perspective, and that is understandable.

The police can speak of it from a tradition of law and the relation of the Solicitor General, the Attorney General, to law enforcement organizations and so on better than I can. But from an accountability issue, not so much in policy but as policy is related to finances, as finances are related to service delivery and service delivery is related to priority setting, that is the stuff with which councils are concerned. That is where it comes back to having that kind of built-in accountability that comes from having a majority of the members of the services board who would be elected.

Mr D. W. Smith: Can Deputy Scott make a comment on that?

Deputy Chief Scott: Yes, I would welcome the opportunity. Traditionally, whenever you have had an intense involvement of the local political level, it has been detrimental to the level of policing services throughout Canada and the United States. Therefore, we would welcome the continuation of the provincial appointees, but we would urge the provincial appointees to be representatives of the community and not more political appointments. If you do appoint politically, then what we have is political control of our police board, which in turn is to the detriment of policing services.

Chairman Tonks: Might I say that I had heard that theory put forward in the past and the members will appreciate why I did not want to touch it. I left it to the chief to answer it.

Mr Philip: I will start off my questions to Chairman Tonks. I know where you are coming from on the point of the person who pays the piper should call the tune, and I know where you are coming from on your suggestions for a more independent police complaint system and the right of the police complaints commissioner to do an independent audit. So I am not going to give you a forum to agree with me or for us to agree with one another on certain issues. What I would like to do, though, is to ask you about something where perhaps—

Chairman Tonks: We do not agree?

Mr Philip: —we can explore or where we may find some room for compromise or agreement. That is section 49, which I guess I find offensive and which certainly the president of the union, Art Lymer, finds offensive; namely, that “No member of a municipal police force shall engage in political activity, except as the regulations permit.”

I am sure, knowing your views on a number of issues, that you would not disagree with the right of a police officer or indeed of the chief of police to perhaps run for political office against you in the city of York if he so desired and exercise that franchise or indeed assist either you or one of your opponents in seeking political office. If you are going to expand section 49 to give police officers the same rights as other citizens should have, are there some restrictions that you would put on it? How would you deal with section 49?

Chairman Tonks: That is a probing question for something that I really had not given a great deal of thought to. I would expect that the Charter of Rights would cover quite conclusively the parameters within which any individual can involve himself in political activity.

I recall that there was a charter argument used on the basis of a person in a union who had involved himself in political activity and was not given a leave of absence. It was argued under the charter, and the argument was sustained, that the request did not go beyond that which was a reasonable right for an individual to request.

I am not sure where you want me to go with that. I would think that within those rights and privileges that are given to a free and democratic environment, the charter would determine the extent to which any individual can involve himself in political activities, including running for Metropolitan Toronto chairman or as a member of the Legislature.

Mr Philip: I guess the problem I have with the charter argument is that the Ontario Public Service Employees Union has been trying to get that same right for public servants, at considerable cost, before the Supreme Court and it is still a matter that is up for grabs. It seems to me that politicians should be able to avoid the necessity and indeed the expense to people, be they OPSEU or your own association, of having to go to the Supreme Court in order to exercise what I think should be reasonable kinds of requests.

I guess that leads me into how far you restrict the right of a police officer to engage in a political or quasi-political activity. I was somewhat shocked to see in your brief that under the disciplinary procedure section you talk about how, in your opinion, they should be barred from any secondary activity that would involve membership in a trade union.

My question to Mr Scott would be, would you also then logically bar police officers from joining, for example, a pro-life or an anti-abortion group or a pro-choice group, since any of those memberships would put them in the exact, same position, one would assume, as being a member of a trade union by

way of a secondary occupation? How far do you want to restrict a police officer in what clubs he joins, what organizations he joins in any kind of a secondary activity he has? It seems to me it is a direct offshoot of your interference with his political activities under section 49.

Deputy Chief Scott: First of all, I would look at section 49 and I would point out to you that the thrust of this whole act is moving towards the relationship between the police and the community. Let's term it community-based policing.

Intimate contact with the police in the community always starts to deal with social issues. Because the police officer is there and is respected in the community, it is not unusual for a police officer to take those issues to his member of Parliament or that type of thing, so I believe that a police officer should have the right to have limited political activity.

When we talk about the police officer's right to join associations, there is no problem as long as it is not in conflict with his oath of office or his duties. Now, if he joins a union and then we go out to a strike where our responsibility is to keep the peace, that is in definite conflict. We have no problem with right-to-life or pro-life membership at all, as long as that does not interfere with his policing functions. If it does, then we take decisive action against him, and have done in the past.

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Mr Philip: My question to you is, what would be the difference between joining a trade union as part of one's secondary occupation as a police officer and joining either a pro-choice or a pro-right-to-life group as a police officer? Surely, in either situation, there may be either a real or a perceived conflict. Is it not the officer's performance that should be rated or judged as a misconduct rather than what organization he or she may join?

Chairman Tonks: I thought the answer given by the deputy chief was really the same answer that is applicable to your question. You posed it with just a little different spin on it. The bottom line is, and it is the same issue we have to relate to every day under our equity and employment issues and our affirmative action issues, where one candidate is given a job or is not given a job over another. If there is ever a suggestion that denial is based on systemic or differential biases, then there is a violation of the rights of the individual and he has the right to take you under the charter or whatever the appropriate legislation is.

I think what the chief is saying is that our assessment is based on one major criterion, and that is, does that association conflict with the oath that the peace officer has taken? That alone determines the basis upon which a judgement would be made.

Mr Philip: I guess my concern is that when you start naming one organization or type of organization, where does the list stop? If you are going to name trade unions, then you had better look at a whole bunch of other organizations, and you are going have to start listing a lot of them because they are potential conflicts. I would rather you look at the officer's conduct and find out whether he is carrying out his duty than limit the kinds of activities he can participate in during his off hours.

The Chair: If I can interrupt for a minute, I want to ask if there is a Mr Cusimano in the room. He is the next presenter, and I do not believe he is here. If that is the case, we can permit an extra few minutes for questions. I think some of the committee members have some additional questions of this particular group. Mr Cusimano not being here, I will ask Mr Villeneuve to

please proceed. You do not have to give up your two minutes to Mr McClelland.

Mr Villeneuve: I appreciate that. To Chairman Tonks, I guess one of the reasons this whole committee has been formed is complaints. I believe you touched on the number of complaints in a year. Could you just crystallize that for me, please?

Chairman Tonks: The deputy chief indicated the number of complaints in a year. I am not sure what the intent of your question is.

Mr Villeneuve: There is a bit of follow-up to it.

Deputy Chief Scott: If you could possibly give me the follow-up, I can direct my attention towards your concerns.

Mr Villeneuve: It has to do with what the percentage is—
Interjections.

Mr Villeneuve: We normally do not get answers in the House. We are going to get some here tonight.

How do you go down the avenues to decide if we have a legitimate beef here against the Metropolitan Toronto Police?

Deputy Chief Scott: It is very simple. If the complainant wishes to complain against a Metropolitan Toronto Police officer, we have to submit it on a report. A copy of that report then goes to the public complaints commissioner if it is received within our police force. Approximately 50% are received by Mr Clare Lewis himself. He will then send us a copy. It is investigated.

What happens is that some of them are quite minor. There are provisions under the act to classify that complaint, because it is not really a complaint. The police officer has not done anything wrong that would merit an inquiry. Again, the provision in the present act means that any time Mr Lewis, the public complaints commissioner, wishes to, he can refuse that and it will go through as a complaint. So there is an appeal or a review process that is going on all the time.

It is the same thing if a citizen does not want the police to investigate a complaint, either through request to me or to the public complaints commissioner. We will then allow the public complaints civilian body to investigate a complaint.

Mr Villeneuve: Do I follow the sequence right? There is an inquiry, and then it is decided by Mr Lewis or someone in his office as to whether it becomes an official complaint or not.

Deputy Chief Scott: That is an excellent suggested procedure. But at the point now, it comes in on a form, and right on the top of the form it says "citizen's complaint." So it originally is a complaint and then it is reclassified, from those that are minor and do not contain the ingredients of a complaint down to an informal inquiry.

Mr Villeneuve: If I feel I have a problem with the Metropolitan Toronto Police, I complain. I have been charged and I complain. From that stage on, plea bargaining occurs if there is a charge, and a number of different comings and goings. If, for whatever reason, the complaint is dropped totally, does the officer have a chance to say anything on his behalf? Perception becomes reality; whatever the person's accent may be, there may be a complaint.

Deputy Chief Scott: One of the problems of the present complaint act is there is no adjudication that can be made that really exonerates a police officer. There is only a nebulous thing that says no further action will be taken. The problem is that one of our recommendations in section 89 is the terminology of

"exonerated" because it deals with that. It does not leave an implied suggestion or smear on an officer's record.

The other thing is that it is very difficult to counsel people with a history of complaints against them when, among those, you have a complaint when that man was performing his duty. I have literally dozens of those stories where a person is performing his duty in a normal manner and there is a complaint lodged. Therefore, one of the recommendations in section 89 is the word "exonerated." That would clarify it.

Just on the opposite side, the complaint has been founded and therefore there is a conviction lodged against him by myself and I take disciplinary action.

Mr Villeneuve: That, of course, stays on the record, as does the complaint.

Deputy Chief Scott: Yes.

Mr Villeneuve: It stays on the record, whether exoneration or not—

Deputy Chief Scott: You see, this is the problem when we talk about it. Under our present regulations, we keep them on file for two years. The public complaints commission keeps them on file for ever. Any time you want a record of a police officer's history on public complaints, you can go to the public complaints commission and get it. But our regulations say two years.

Mr McClelland: Mr Smith asked you to comment on page 25 of your brief with respect to section 43. You responded, and it caused me some concern. I would like to flesh out some of your comments somewhat with respect to your recommendation that section 43 be changed to read "landed immigrant" versus "permanent resident." You said in your response, indeed it is contained in your brief, that this would be necessary to achieve some of the equity employment standards and goals that we might have.

It seems to me that part of an equity program in policing is at least twofold in nature. One is to reflect Ontario as it is in our communities as they are changing; the other is surely to integrate policing into the community. As Chairman Tonks said just a while ago, I am not sure that any of us put a great deal of substance or take a great deal of comfort in appearances for appearance sake. It simply leads me to the conclusion that if we are bringing people in to fill quotas, to accommodate appearances, I ask the question, quite frankly, how do we reconcile that in light of the emphasis on community policing?

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It seems to me that a component of community policing must mean an understanding of, integration into and time in the community in order to interact appropriately and to carry out the reason behind our equity programs. I will tell you quite candidly that I am a bit alarmed to hear you say that in order to meet the equity requirements it might be necessary to bring officers in, to recruit overseas simply to meet numbers. I say that, bear in mind, in light of the fact that I think it fundamental, in terms of our community approach to policing, that there ought to be a very real understanding, an investment of time, certainly an investment of appreciation for the community in which that officer will be serving. I would appreciate your comments on that, sir.

Deputy Chief Scott: It is a very good question. One of the basic responses I can give you is that we are finding it extremely difficult to recruit from visible minority and ethnic com-

munities. You have a window of opportunity to recruit those kinds of people you are trying to hire. What I mean by "those kinds of people" are those kinds of people who understand a community's values, who understand a community's language, who know the old-country ways wherever they come from. When you start looking at the second-generation Canadian, even though he has a good command of the language, he has been subject to our educational system and the milieu of Canadian value systems and is no longer credible in the old-country community.

Another thing is that if a person immigrates to this country, as I did, and he is here, we hire him as a police officer one, two or three years later. He becomes a member of certain parts of the community. All we are trying to do is increase that, or stop that gap. One of the major problems is that there are not enough suitable candidates for us to recruit from.

As a Metropolitan Toronto Police officer, I support some of the recommendations in the Clare Lewis report. One is lateral entry in the police forces, where we can hire a police officer in another country and move him into our police force as a police officer at his position; no problems with that. It is great for the police community itself to enrich and share ideas, but devastating to the Metropolitan Toronto Police.

We are being recruited now by other police forces throughout this province. When we get the equity employment program in under the Police Act, they will be twice as vigorous. Where are the ethnic communities? Where are the suitable candidates? They are in Metropolitan Toronto. For the last three years, we have increased 100% every year of losing police officers going to other police forces. Therefore, when we start to hire our people from the visible minority and ethnic communities, they are going to be recruited. And we are faced with another problem: They go out to a suburban police force, they do not have the pressures and hassles of a big-city life and do not have the economic penalty attaching there. Second, their wages are fairly close to being par. Those are the problems we are facing.

Mr McClelland: I have no difficulty whatsoever with anything you have said. I understand what you are saying in terms of lateral entry. I would be interested if you could just briefly address how you see the balance. I do not think it is an either/or situation. I hope I did not imply that in my question. How would you inject into the process of bringing people of various ethnocultural backgrounds, doing foreign recruiting, to address the balance that would see to be appropriate on the police force? How would you then balance the need for a timely and yet effective, if you will, orientation—I do not use that word in a precise sense because I do not think it is sufficient, but certainly an appreciation, an understanding—if you want an element of integration into the community at large as you fulfil the very laudable objective, providing the balance but also at the same time maintaining a sensitivity and an integration within the community at large and in the broader context? How would you propose to do that? What kind of training would you see as being necessary or required to accomplish that?

Deputy Chief Scott: All I must place forward is that is a consideration. Nobody has laid it down that we are going to foreign countries to recruit. That is a consideration we are looking at in our long-range planning scheme. The issue there is that you are really reversing the situation now; that is, what is happening to a Canadian police officer relating to the minority community. If you bring a minority police officer here, he will not have any trouble relating to the minority community but he

may have some trouble relating to the Canadian community. Therefore, it is a matter of recruiting, the probationary period, the peer level, the association with Canadian officers, the training constable course. There are all kinds of methods and techniques you can use to do this. Every new immigrant to Canada has some cultural shock and awareness to take care of and I do not know any way at all you can avoid that. You can maybe minimize it.

The Chair: We have actually extended our time up to this point and we have three additional members of the committee who want to ask questions: Mr Neumann, Mr Cooke and Mr Philip. I am going to permit the three of them to ask questions, but I am going to ask them to be very brief and ask that the responses also be quite brief.

Mr Philip: Mine was a supplementary to Mr McClelland's question.

The Chair: All right, we will let you go first then.

Mr Philip: It seems to me that we are spinning our wheels on a non-issue because it is just a misunderstanding that we have over clause 43(1)(a). It clearly says that, "No person shall be appointed as a police officer unless he or she is a Canadian citizen or"—and the operative word is "or"—"a permanent resident of Canada." As someone who does an awful lot of immigration work on behalf of constituents, a landed immigrant is a permanent resident of Canada. Therefore, it seems to me, your concern and the concern of the police association is met in this one. I think that basically in this bill we are saying that yes, a landed immigrant can be appointed as a police officer. Maybe the minister would comment on that. I do not see what the problem is.

Hon Mr Offer: We had some discussion about that. Basically there are going to be two general groups of individuals under section 43. First is a Canadian citizen and second is a permanent resident. The permanent resident will be able to be a police officer. Permanent residency is made up really of two aspects: first, the amount of time spent in the country, which is half a year; second, the right to work. Basically "permanent residents" and "landed immigrants" are now used interchangeably and so the issue is one where a person who is either a Canadian citizen or a landed immigrant, being a person here for a specified period of time and given the right to work, can apply as a police officer.

Mr Neumann: My earlier question was answered, but I would like to follow up on the same line of questioning. I tend to agree with Mr Philip that there is not a distinction between "permanent resident" and "landed immigrant," but nevertheless I think Mr McClelland's line of questioning has brought out an interesting response which intrigued me. I find it difficult to understand how going overseas and hiring people from other countries will help police forces better reflect Canadian society and the diversity of Canadian society. Would this help to explain as well why, for example, there are not enough women in the police forces of Ontario?

Deputy Chief Scott: The issue, and I keep repeating it, is that there are not enough suitable applicants from our visible minority and ethnic communities.

Mr Neumann: What about intensifying the recruitment program in the high schools and promoting policing as a career?

Deputy Chief Scott: I do not know of a police force that has spent more money on more intensive recruiting anywhere in

Canada in order to implement our equity employment program. At the present time 4.5% of our police officers are visible minorities. That does not sound like a lot, but it is better than any other police force in Canada, which reflects the money we have spent on recruiting teams, advertising in ethnic newspapers, going into the schools and mentor systems. Then on top of that where we are successful—and nobody seems to give us credit—is on the civilian side of our force, which totals over 2,000 members. We have 18.8% visible minorities.

That is an example to this government. That is an example to our board. That is an example to Mr Tonks and Metropolitan Toronto. Those are examples in intensive recruiting. Despite this, we have meetings with all groups of communities that Mr Tonks and myself sit on in order to try to get more visible minority and community representation. The sad fact is that we cannot get enough suitable candidates from these communities. Therefore, you have to look at some alternative plans down the line, and that is just a suggestion that had been brought up by our planning and research.

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Mr Neumann: I did not mean to criticize your department. I was just intrigued with the comment you made about hiring immigrants.

Has the police department ever considered or ever done a survey of attitudes among young people as to why they do not choose policing as a career, and try to perhaps change the perception of the profession?

Deputy Chief Scott: I do not believe that a survey has been done officially. We have a lot of perception surveys about how they view the police, those types of issues, but most of the time we do not have a survey specifically directed towards the reasons you would not join a police force, which I think are specific. I do not believe that there has been a survey done scientifically in that manner. Are you aware of any, Mr Tonks?

Mr Neumann: I think there are a lot of unanswered questions in this field.

The Chair: Mr Cooke, did you waive your final question or are you going to go ahead with it?

Mr D. R. Cooke: I will waive the question, but I just want to make two or three short comments.

First, I can understand your concern about second-generation people perhaps not being fully conversant with first-generation problems. It is sinking in, and I can understand it.

Second, I just want to draw to the Solicitor General's attention page 44 of the brief, on which the Metropolitan Toronto Police endorses my amendment to section 70.

Hon Mr Offer: Point noted.

The Chair: Thank you very much, gentlemen, for your written brief and your extensive answering of questions. I am sure it was very useful to committee members. On behalf of the members of the committee, I want to thank you for your attendance here.

MIKE PAPADIMOS

The Chair: Our next presenter is Mike Papadimos. You are aware of the fact that you have roughly 30 minutes and that includes time for questions.

Mr Papadimos: Gentlemen, I do not represent any particular group. In fact, when I introduce myself I will say that I

have been active with my community for the last 25 years. I have been in the Liberal Party for 25 years. I attended a lot of policy review conferences. I am just a concerned citizen who took the initiative to talk to some presidents of ethnic minorities, other than the visible minorities, to see how they feel about the situation with the police.

I spoke to the presidents of the Macedonian community, who represent 100,000 ethnics—the presidents all gave me letters addressed to the Solicitor General—and also the Ukrainian community, established since 1891, with 280,000 ethnics. The total of the ethnic community living here is two million people, and they are all disturbed about the problem that we have with the police and the way the police were handled.

I know the politicians are caught in the middle, trying to protect the rights of the individual, having the police protect their authority to enforce the law and at the same time trying to make sure they represent the opinion of the majority.

I have been involved with many of your cabinet ministers. I know how important it is for a politician to be able to know what the public thinks about what he or she is doing. So I took this initiative and talked to about 10 or 12 presidents of the ethnic communities.

Before I read you the letters, I will tell you what my opinion was after I talked to them. Who is a policeman? We take a young man, 19 years old, out of high school and we put him in the academy. What do we teach him? I have seen the video with earmuffs and gun shooting and all the bullets should hit the heart. Then we teach them one fundamental principle, to apprehend any person who breaks the law and bring him to justice. Is that not what we teach them? We do, and we expect them to do that.

Then we see that the policeman goes out there. If any of you gentlemen had the experience, at three o'clock in the morning, of going in some dark alley at Dundas and Jarvis pursuing an armed and desperate man who just raped a woman and, all of a sudden, facing a .45 calibre gun and a criminal with his finger on the trigger, have you ever had the chill in your spine that in two seconds you are going to be a dead man? I had it. I am a war veteran.

We had an evacuation of 250,000 people in Mississauga by the police force in four hours and we had experts from all over North America come to study how they achieved it. Who was the last man who left the scene of a deadly chemical spill with the risk of dying there? The policeman. Whom do we send when a father is threatening to kill his wife and kids with a shotgun? A policeman.

But you know what happened in the city? We are victims of a poor press, a sick press, and militant agitators. The politicians and the public were all victims of them. They created the situation. To cool this problem, we charged the constable who did the shooting. Of course, that backfired. In three weeks policemen were beaten. A 22-year-old constable, a young girl on the police force, was grabbed by some man of 240 pounds, given a bear hug, lifted off the ground, thrown to the ground and called a slut. He said, "Come on, shoot me."

The way we handled the situation, what we did was feed arrogance. We see it growing every day. Then two detectives went to arrest the man, a criminal. They had an arrest warrant issued by the Minister of Justice. They were attacked by 20 hoodlums and beaten. Where do we go from there?

The press made a hero of a 16-year-old kid, but they never mention in any of the articles I have here that the kid had a criminal record, no driver's licence and did not stop. To me, when a young man of 16 does not stop for radar and has a

criminal record, he is a criminal in the making, but they made a hero out of him and the policeman was charged. So we cooled the situation.

The Chair: Mr Papadimos, I have to remind you there is a rule in the Legislature that we do not comment on any cases which are before the courts. You can refer to the incident, but I would prefer that you did not go into the details.

Mr Papadimos: I spoke to all those people. I feel sorry for the policemen. The way we handle it, we are tampering with safety. I never met the president of the Police Association of Ontario. I spoke to him on the phone. I know the morale is very poor because of these incidents. Charging a constable reminded me of the My Lai massacre, where the congressional committee brought a full sergeant from Vietnam, a negro sergeant, to hang so they could wash their dirt of running their own war.

A year and a half ago Constable Weller was fired, kicked out of the force. He was charged by his superiors because he wanted to go to court to prove his innocence. The Solicitor General at the time dismissed the charges because he did not want him to appear in court. Foetuses and unborn babies have rights in a court of law, but not Constable Weller. It was easier to kick him out of the force and cool off the situation. I tell you, this is not the way the public sees the way the government and the responsible people are handling the police today, and I hope those who have the power look at the police force in a different view from what we have seen today.

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I saw a sergeant one day arresting a 12-year-old kid at K mart for shoplifting, handcuff him, take him to the police station, fingerprint him and put him in jail. Do you think he enjoys that? He is torn because he is a father and he has a son the same age, but he had to do the dirty job. We expect it and train him to do it, to protect our businesses, our society, our homes and our streets. Do you think he is doing it for the lousy \$40,000, when an electrician is on strike for \$36 an hour? He is a man of commitment. You have to know the man in uniform to understand him. Do not take that commitment out of them, because we are going to become like Los Angeles.

If we put too much pressure on the policemen, there are two possibilities. The good cops will take off and get a job as security officers at the Royal Bank Plaza; they will get the same money without all this hassle. The second choice: "Why should I risk 18 years of seniority and turn my back on work? I don't give a damn."

What should a policeman do when someone he signals to stop at a radar does not? What kind of cop are we going to have who will say: "To hell with it. I'll catch the next one"? No. If he is a good policeman, he has to pursue that man and catch him. If I were a cop, I would think one thing: if he does not stop, he has more than \$50 at risk. He is a criminal trying to get away, he committed a crime and does not want to get caught or he is carrying 50 pounds of cocaine in his car and does not want to get caught. How would the policeman know why this man took off? If this young man stopped there and accepted the law, we would not have had this ugly incident.

But what it is, gentlemen, is the press. What all the people of all the ethnic communities I spoke to tell me is: "The press is what creates more problems. I wish you could regulate them to be accountable for what harm they do to the community when they do these things." It is very damaging.

I spoke to a number of presidents of different ethnic communities and I have two letters here. Tonight we have two

votings in the Ukrainian and Polish communities. Those letters were sent to the Solicitor General. I will read you only the two I obtained yesterday. There is one from the Greek community of Toronto. Dr Karantonis is the president and he says:

"Like all of us, I have been following in the press and the other media the negative criticism levelled at the Metropolitan Toronto Police Force as a result of certain unfortunate incidents involving members of the police force and members of certain minorities.

"Although I am expressing my personal views, I am certain these views are shared by the entire Greek Canadian community of Metro Toronto. I am sure these incidents cannot be but a result of poor judgement on the part of the policemen involved rather than the pursuit of preconceived notions or attitudes about certain community groups. To accuse the entire police force of bias or discrimination is irresponsible and indefensible. It aggravates the already difficult situation.

"There is no doubt in my mind that our police force enjoys the respect and confidence of our entire community. I want to assure you of my personal support as well as the support of my community."

I will read you the last letter of Anastus Poleski, the president of the Macedonian community, which has over 100,000 ethnics here:

"After following the development of the problems of some ethnic minorities with Metro police, I take the opportunity to express my views since the Macedonian community of Metro is representing 100,000 ethnics living in the city for 80 years. It is disturbing for us to see the politicians tampering with the safety and security of our city by bowing to the demands of some militant activists and agitators from ethnic minorities interfering with the function of the police force.

"As far as the Macedonian community of Metropolitan Toronto, we have absolute confidence in our Metro's finest for their function, discipline and the way they handle the ethnic communities. The accusation against the police force of being racist is unfounded and our ethnic community is proud to have the safety and security of our homes and streets in the hands of the best-trained and disciplined policemen in North America. In the last 50 years our community never had any problem with the police. On the contrary, we are thankful for a job well done."

Gentlemen, I am going to continue my work with the ethnic communities. I hope in a few days the Solicitor General will have at least 10 letters from the ethnic communities, which I hope will give you the real public opinion and not the garbage that our press is feeding us. I know it is difficult to fight the press, because we have the principle of free press, but this is my last remark I make about the press.

In 1985, the Queen came to Toronto to dedicate the air force memorial. She never made the headlines. It was only the Queen, nothing sensational. My son that year was in the air cadets. He was the cadet of the year and he was given a parade of 800 cadets through Yonge Street to the city hall. Our great mayor was not there, because they were young boys, no votes. There was only a priest and a colonel at the podium. Some 1,200 young boys, instead of selling drugs or vandalizing the schools, get trained. They visit old age homes and crippled people, assist the police with first aid, help any civilian in any emergency and all the good things. They are tomorrow's lawful, good citizens and leaders. I bet you 100 of those boys are policemen now. There was not one camera, not one line in a newspaper, not two seconds' coverage.

At the same time as the boys were at city hall, there were 20 hoodlums with purple hair and chains around their necks protesting the removal of the air force memorial. What a coincidence. They made the first page of the *Toronto Sun*, 15 inches. That is our press and that is how good they are in serving our community.

Thank you, gentlemen. I hope in a few days we will have all the letters done and we will call a meeting with the Solicitor General to present the letters from the ethnic community.

The Chair: There is some time left for questions and I understand that at least Mr Smith has a question.

Mr D. W. Smith: This is maybe one of the strongest presentations I have heard in favour of the police. I have been to a few retirement parties for some policemen and I sometimes make the comment that these guys or these women are doing a job that a lot of people would not even think of doing.

I do not know how you can make a comment on this, but I listen sometimes to a hotline show when I am driving back and forth to my riding. There was a policeman who came on the air one day. I think after he made an opening comment, I got the impression that he did not think maybe he should have said what he did, but he said something like, "I guess I'm going to look the other way." The radio host tried to get him to identify his division, and I think he saw right there that he might be in trouble with his superior officer or somebody.

As you have gone out and spoken to the community—maybe you have an affiliation with some of the policemen; I do not know this—do you think the policemen are going to say in the back of their minds, not certainly in writing but in the back of their minds: "To hell with it. I'll look the other way"?

Mr Papadimos: Yes. I have been in uniform too and my son is in uniform. I know that these men do not work for the \$40,000. No, sir. They work because they love what they are doing. Of course they have poor judgement sometimes, but can you, when you face a criminal—you try to arrest a criminal and you carry a book of regulations—pull the book out when the guy has a shotgun facing you to see: "Can I pull my gun now or not? Is his gun loaded or not?" How do you know?

We can do with one less criminal in this city, but not with one less cop. I saw in the *Sun* the other day the statistics of crimes. In different crimes 72% was the highest and 18% the lowest. Does that not tell you something? Maybe the policemen do not care so much. With 18 years' seniority or 20 years' seniority and a family and a mortgage to pay, would you risk yourself if you knew that if you take the initiative to do something and you take it wrong, you are going to be thrown out of your job? I would not. What would it cost me just to ignore it and run away? This is what we are going to do to the policemen.

2050

Give the men the authority. We have lawyers who have their own regulatory body, the bar association, we have the architects, the chartered accountants, all this. Can we not trust the men to whom we trust our lives and the security of our homes to discipline themselves? Come on now. How can we trust a surveyor or an architect better than a policeman? All these years, we never had problems. I tell you, it is not the problems with the police and minorities, but agitators. Those people do more harm to the community than anything else. I was trained in intelligence when I was in the army and I know these people. They are just there. If it is not the police, they will

find something else. Their job is to aggravate the public against the authorities. You had better wake up.

If you eliminate those and get the press to be more sensitive to these community problems, especially the racial problems, and not to jump the gun and put articles—do you realize that on the third day after the shooting incident there was an article in a paper by a female reporter in the *Sun*? It showed a picture of the victim. They must have taken it from his mother. He looked about 8 or 10 years old. She could go to the hospital and take a picture. No. She took a picture of the victim when he was eight years old to attract public sympathy. That is all the paper wants, sensationalism, to create interest by the public in a negative way. They should be more responsible, especially when we live in a city with so many cultures and so many feelings.

When we write something in a newspaper, the Italian will take it a different way, the Greek will take it a different way, the Macedonian will take it a different way. But we have an indifferent press on the needs of the community and to assist the politicians and the government and police to do their jobs. We never had this problem before. I have lived here for 35 years. I did not come here either to condemn the blacks.

I was with the Department of Highways for 14 years. When I told them I resigned, they asked me to appoint a man and train him to take my job. I had Anglo-Saxons, Ukrainians, Greeks with 18 to 20 years' seniority. I chose John Fernandes, a Negro from Kenya—he is still there, running the section—because he was the best qualified to take my job. That is the way it should be.

But not favouritism. I want the politicians to understand that, because the ethnic communities came to the point where you are playing favouritism with the visible minorities. Do you know what you are going to create? I will tell you. You are going to create racial problems between the white ethnic minority and the coloured ethnic minority. Hell, in a city like this you are going to have a lot of problems. I do not know what you do, but you have to take this problem seriously.

I know you are in difficulty. Government is in a difficult position. Where do we take all these complaints? We get all these ethnic minorities, everybody trying to protect his community. But you have to get into the community, not in terms of going through these agitators in front of the camera. Go to these ethnic communities after their church service. Have a coffee with them and talk to them and see how they feel about the city. Some of these communities have been here 100 years and they respect the police and they trust the police. Dragging the policemen down through the mud—there is all this here. I will show you exactly what.

After two weeks, a poor girl who joined the force was left on the ground. They threw her down and the guy called her a slut and said, "Come on, you shoot me, slut." Nobody said that before, but after they see that, they charged the policeman. Now the policemen are chicken. "They wouldn't resist, they wouldn't beat me, they would not hit me because they are afraid now." You see, it backfired and it will probably get worse.

Look at the statistics of the crimes. I do not remember the list of crimes, but a 72% increase in Metro. Metro used to be one of the safest cities in North America 10 years ago. There are two major elements there: poor press and agitators. They create the problems. You have the problem on your hands and you try to solve it, but there is a wrong approach, gentlemen. We should not fire the policemen, we should not charge them. We should look deeper.

I was disturbed a year and a half ago when a constable was denied the right to go to court and prove his innocence. What the other policemen would say is, "Just a minute, all he asked is to go in front of the judge and give the facts to show he is innocent." "No, you can't prove yourself innocent. You shall die guilty." Why? Because some agitators and all those, what I call the tribunal, those cartoon judges, who have never been elected dogcatchers of the neighbourhood, were given the authority to judge a policeman. That is a shame.

Mr Neumann: I just wanted to focus in on one of the two reasons you gave for the problem, that is, as you put it, the poor press. I served seven years on a police commission as mayor of the city of Brantford, so I am aware of the importance of maintaining police morale. But I am aware also as a politician, as are all of us here, where sometimes you get frustrated with the media.

I know that during the time I was mayor I drove to the city hall every day and the newspaper never reported that I got there safely, but the one day I had an accident, the headline was, "Mayor Charged." That just goes with a democratic society and a free press and there is a tendency to report negative news. I can understand what you are saying, but what is the answer? You are surely not asking politicians to control the media.

Mr Papadimos: The answer to that is, when an incident stays like that, the government should have a special department of information to go to and state the facts the next day in the Sun and the Toronto Star. Get them printed and let the people know the truth.

Mr Neumann: Is that not what they had in the Soviet Union?

Mr Papadimos: Not one of the articles mentioned that this kid had a criminal record, he had no driver's licence. I did not know. Somebody told me a week later. I did not even know. Why did they not say: "This kid had a criminal record and was

16 years old. He had no driver's licence. He almost killed a policeman"? The government should be responsible to inform the public the next day and anything the press says, the next day the government has a special department of information. They go down and put it down and says, "Gentlemen, these are the facts about this matter."

Mrs Boyden is here. I am arranging to have the presidents of all ethnic communities, in the near future, in a week or so. She is going to come there with the videos and with a presentation to inform the people of what is happening, because the only way we can get together and put this city in order is by all getting together to understand the problems, inform the leaders of different ethnic communities.

As a matter of fact, I suggest to Mrs Boyden that we are going to work in the future so that once a year we will have a conference of all the presidents of ethnic communities, black, green, white and purple, all together at the Holiday Inn and sit over there and invite the politicians and discuss the different problems and see what these people have to say. Those people are the ones who bring the public opinion, not the garbage the press feeds us every day. You should get closer to us ethnic communities. Let's face it, Toronto is 80% ethnics.

Mr Neumann: But surely our best defence is a free press. Ethnic groups can start up their own newspapers.

Mr Papadimos: If the press feeds us garbage, what is wrong for the government to establish an information section and the next day you state the facts in the paper and let the people know? Then you are going to make the press be close to the truth, because they are going to look like idiots if the next day the Minister of Justice puts the facts down.

The Chair: I do not think there are any other questions from any other members. Thank you very much.

The committee adjourned at 2058.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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McChesney, Anne, Legal Branch, Ministry of Solicitor General

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J-24 1990

J-24 1990

Legislative Assembly of Ontario

Second Session, 34th Parliament

Official Report of Debates (Hansard)

Tuesday 19 June 1990

Standing committee on administration of justice

Police Services Act, 1989;
Report on Race Relations
and Policing Task Force

Chair: Robert Chiarelli
Clerk: Douglas Arnott

Published by the Legislative Assembly of Ontario
Editor of Debates: Peter Brannan

Assemblée législative de l'Ontario

Deuxième session, 34^e législature

Journal des débats (Hansard)

Le mardi 19 juin 1990

Comité permanent de l'administration de la justice

Loi de 1989 sur les services
policiers ;
Rapport du groupe d'étude sur
les relations entre la police et les
minorités raciales

Président : Robert Chiarelli
Secrétaire : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
Éditeur des débats : Peter Brannan

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday 19 June 1990

The committee met at 1210 in committee room 1.

POLICE SERVICES ACT, 1989 REPORT OF RACE RELATIONS AND POLICING TASK FORCE (continued)

Consideration of Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, and the report of the Task Force on Race Relations and Policing.

TOWN OF KINCARDINE

The Chair: Our first presenter today is from the town of Kincardine, Donna Wilson, mayor, and associates she can introduce in a minute. I just want to repeat that normally we permit 30 minutes for each presentation, which includes time for questions and answers. We would appreciate it if you could leave some of your 30 minutes for questions and answers by committee members.

Mayor Wilson: First of all, thank you for giving us the time to come and speak to you. I would like to give you a brief outline of Kincardine.

Kincardine has a population of 6,000 with a 21% industrial and commercial tax base and 79% residential. We have had a police commission board in the town of Kincardine for 10 years. We have 10 constables, one chief, two secretaries, nine auxiliary and one padre.

I understand that you received a copy of the town of Kincardine brief yesterday and that you have it in your hands today. We really would like to give an outline of our own local experiences and of the morale problem in the other departments in the town of Kincardine because of the budget restriction because of the police budget.

At this time I would like to introduce the rest of my panel. Stuart Mowry is the reeve of the town of Kincardine and on my left is Ronald Shaw, the clerk of the town of Kincardine. At this time I would ask Stu to speak.

Reeve Mowry: We are here this afternoon to express a couple of concerns about the revision we have before us. We do not pretend to understand everything behind the motivation of Bill 107. We do not pretend to be authorities on policing. We represent a very small municipality. But we do have a couple of concerns. They were in the old act and as we read the new proposal, we see really no redress of those concerns.

We have, as the mayor has indicated, a police commission in town and over the last couple of years we have faced what I guess every municipality and every form of government in this Dominion and certainly in this province faces, and that is escalating costs and declining taxes.

Our police operating budget, for example, in 1985 was just slightly over \$469,000. The operating costs this year were at \$723,000. They are still in the midst of negotiating a police contract. They have gone through mediation and broken off and are now headed for arbitration. Ballpark figures are rattling around like 10% to 18%. You then impact that on \$723,000 and come up with an idea of where it is going to be.

The commission's budget has gone from \$16,500 to slightly over \$100,000 in five years' time. There is one salient fact in that, in that they have decided that in order to keep the police operating budget down, they would shift the chief's salary to the commission. So you take \$49,000 plus benefits, or \$52,000, out of the operating cost of the police department and it makes them look good. You put it on to the commission and it makes it look bad. The end product for the municipality is that we still get a bill of \$900,000 for policing.

When we questioned it, we were told, quite simply, that we were being very naughty, that we had no right under the act to question what the police commission decided it needed to operate the police department. When we received their budget submission—I am chairman of finance—in the fall, we thanked them and told them that we would take it under consideration, as all budgets would be taken under consideration, along with their capital requests which were in the area of about \$57,000 at the time.

The police commission left the meeting and proceeded to buy all its capital equipment. Before other departments had even had the chance to have a preliminary meeting with the finance committee and before council had even had a chance to take a look at what the capital forecast and operating costs of the municipality were going to be, we started getting invoices for new cruisers and new equipment, furniture for the new computer for the Ontario municipal and provincial police automation co-operative to sit on and so on. We were told that it was in our budget, and that is the way it was.

Finally, when we decided that it was either dig in or be overwhelmed, we notified the commission that the budgets were not final until the committee of council had met and discussed them. The mayor received a phone call at 7:10 on the night of council meeting, at 7:30, from the chairman of the police commission advising her that if council saw fit to change the submission of November of the police commission, we in fact, as councillors, could be charged. The implication was very strong that we would be charged.

I give you this as background because I want you to see that in our municipality we have sort of the battle lines drawn.

We worked very hard to keep our budgets under 9% this year for the operation of the municipality. The police commission pulls a \$1-million increase on us and says: "Don't question it. It is there. The legislation says we have the God-given power to do this and you will be severely slapped on the wrist and possibly face a court date if you do anything about it."

We will not even get into what the school board does to us, because I am sure you are well familiar with that.

The end product is that when we look at the old act and then look at the new proposal, we cannot make out what the grievance procedure would be. We get a budget from the police commission and if we do not like the budget, we do what? Say to the police: "You are not being very good. Please co-operate and do something for us," or appeal to the Ontario Police Commission?

When we read it we are not really sure whether we appeal to the commission or whether town council takes its knife, cuts the budget and says to the police commission, "If you don't like

the way we operate, you appeal to the commission." We prefer that method because, as I have laid out to you, if we do not do the cutting first, the money will be spent by the time the appeal ever gets to the commission. You are wise enough to know that inevitably somebody gets his wrist slapped but the money has gone out the door.

The revision does not seem to address that. It leaves us still confused as to what the intent is.

The other part of it that troubles us as a municipality is that we appear to be appealing to the body that sets the standards for policing. They send their agents into our community. They write the report on what our police force has. If I read this act anywhere near right, they also have the right to say to the chief: "You are not doing this, this and this. You will do this, this and this." How do you get a just hearing when you go before the people who set the standards and enforce the act? If you do not like what they say, do you go back and ask them to change their mind?

The basis of our argument and our plea is really that as a municipality we feel this strikes very quickly at the very heart of democratic government. The elected officials of the town of Kincardine, who must struggle to set the mill rate, are being told that \$1 million of their mill rate is beyond question, and that if you do not like it you can appeal to the people who set the standards which affect the setting of that budget.

1220

The commission is made up of appointed representatives. There are two members of council, but they do not hold the majority. The new act would allow the crown to appoint the chairman, not even be allowed to be elected from among the commissioners. It is our contention that in a democratic society he who pays the piper calls the tune, and in this act policing is beyond the calling of the tune. If we hit \$1 million in my town, roughly \$3.2 million of my municipality's budget would be set by bodies from outside the municipality and not accountable to the municipality, the school board being the biggest chunk of it but with the police commission galloping in. They do not represent. They do not stand for election.

Just to give you an example, at a meeting with the police commission a week ago, I had it told to me by the police commission chairman that they were in the process of reviewing their police offices. If they deemed it necessary, they would go ahead and build a new building, not with council's approval. They would build the new building and council would then gladly pay for it.

We have waste management problems, as most people would be familiar with in Ontario. We have a lagoon problem with phosphorus going into Lake Huron, which the Ministry of the Environment tells us we have problems with. We have an erosion problem and we are going to lose half our front street unless we undertake a \$4.5-million project. We have a firehall that will not hold our present equipment, let alone our expanded coverage area. And we are being told by a non-elected body that if it deems that it needs bigger kitchen facilities and better washrooms for its officers, it will expend the money and send us the bill. I reiterate: If we do not like it, they will charge us.

The act, as you have it in front of you, does not appear to do anything to redress what we feel is our real grievance, that we are in an arbitrary situation in which a non-elected body dictates to the elected representatives of a small municipality the expenditure of its moneys. I put to you very humbly that this is contrary to what I perceive to be the democratic principles of any democratic society.

I might add that just a year ago I was informed by the Chairman of Management Board that one of the reasons the government would not move on public service pensions was that it would never place the government in a position of having a third party dictate the management of large sums of money from the Treasury department of the province of Ontario.

I submit to you that \$1 million of my municipality's budget is a heck of a large amount of money and I think the principle should hold true. This act does not leave us feeling very comfortable with any way to protect our rights. We still get \$50 a household for policing. We got \$50 a household for policing in 1982. We now have court security and any number of other arbitrary decisions passed on by the provincial government, but we have not seen an increase in the funding.

We humbly submit that it is wrong and that it is a basic attack on the democratic rights of the people in the town of Kincardine and their elected representatives to do what they feel is best for their municipality. We ask you to seriously take a look at it because we think the act is flawed. I personally will go to jail, and my mayor has publicly stated she will go to jail, rather than be dictated to by an appointed group from the crown.

Are there any questions?

The Chair: Yes, we have several people who want to make comments or ask questions. First, the Solicitor General has some comments on something you referred to earlier on in your presentation.

Mayor Wilson: Excuse me. Just before you start, could Mr Shaw finish our presentation?

The Chair: Certainly. I understood—

Mayor Wilson: Sorry; that is our fault.

Mr Shaw: We did not make that clear. I just want to say that I am associated with the corporation of the town of Kincardine on an appointed basis, rather than an elected one, and I might have a different view on this that might help out somewhat.

What I see among the members of council I work for is a disillusionment through this whole process. They ran for council in a democratic forum to make a difference. I sense very strongly, through this whole process of dealing with the police commission, a sense of frustration with regard to the fiscal aspects of the operation of the commission.

I do not think council wants to get involved in the administration of policing or dealing with police or anything else and to sort of put the fear of politics in among the operation of the police force. I see them wanting to have more control over the tax dollars that are spent in that department, an equal control as we have over other essential services such as fire, sewers, roads and planning. As the administrator, I also sense a frustration among the various departments of the town in that they have larger cuts in their budgets than do the police services. If we are living in a truly democratic society, why does council not have that control? That is the question we have.

We note that at the provincial level there is control over OPP policing in that respect. We would ask that a similar type of control be available to council over its own local police force as far as how much money it can raise from the local taxpayers is concerned. This is a fundamental problem that we see underlying Bill 107 and one we would like you to seriously consider and address.

Hon Mr Offer: I have a question. I thank you for your presentation. You spoke about the budgeting process as between the local board and the council. I am wondering if you can share with me what right now is the process in dealing with budgeting. For instance, is it not the case that the police board now determines a budget for policing, which it provides to the council for acceptance or rejection?

Reeve Mowry: They provide a budget for us. We have asked, as late as last week, that they put in for next year, this year having gone by way of water under the bridge, that they provide a budget submission to the finance committee of council by 1 November.

Hon Mr Offer: I am not really talking about a specific year of budgeting, but generally the process.

Reeve Mowry: We understood the process to be that after they have provided us with the budget, it would be then considered in conjunction with the submissions from other departments in our municipality. I am not too much questioning the operations part of it, because that really is almost beyond our purview to really question, but also in that budget submission is a capital submission. The submission comes in and then they turn around and spend the money.

Hon Mr Offer: But the process itself is that the local police board determines a budget for policing. It submits that to council for acceptance or rejection. In the event that you come back with something less than the amount of money that the local board wants—I guess the question is, has that ever happened?

Reeve Mowry: Yes.

Hon Mr Offer: What happens after that?

Reeve Mowry: The usual process has been that we go over their budget submission, resubmit it with suggested changes and amendments, and usually, as you would expect, some kind of deletion or reduction. As of this year we were basically told, "No, there are certain things that we will not consider allowing you to take."

1230

Hon Mr Offer: Not getting into the local negotiations, I want just to follow through. If there is a matter of dollars on which the local police commission and the council do not agree, then the process, as it exists now, is that the issue must be taken to the Ontario Police Commission for a decision.

Reeve Mowry: Our problem is that if that route is followed, when we get to our day of hearings we will also have the invoices for all the purchases that have been made from the budget submission, because our commission is not going to wait to hear the results of that tribunal. They submit the budget and hear us say we will consider it when we put our other \$4.5 million on the table. In particular, capital is what burns me. Six weeks later I get an invoice for a new cruiser, "Please pay in 30 days."

Hon Mr Offer: I see what is happening.

Reeve Mowry: That is what is wrong with the process.

Hon Mr Offer: The basis of the process now is that the local police commission determines a budget. It then takes that to council. Council can then say yes or no, or discuss some other dollars. If council does not approve—this is the current way in which it has gone—all the dollars and the local police

commission does not agree to the reduction, then the amount of money that was originally asked for by the local police commission will be the amount of money to be budgeted, unless the local council takes it to the Ontario Police Commission for final adjudication.

That process is unchanged in the new Police Services Act, except for one thing which people seem to overlook: that is, there is a different police commission. You spoke to the process. One of its difficulties is that the Ontario Police Commission potentially is not only hearing an appeal, but is also the body that is responsible for policing standards.

I think that comment and criticism is well taken. I agree with you. That is why we changed this under the legislation. The new Ontario Police commission, which will be the Ontario Civilian Commission on Police Services, is going to be a purely quasi-judicial body, listening to matters such as this and others. The policing standards area is hived off and is part of what is now a policing services division of the ministry.

I am sorry I went the long way around, but the concern you brought forward is one that we have recognized and acknowledged and reflected in the legislation by making the rules and responsibilities of the OCCPS more of a quasi-judicial or pure type of responsibility, so you should not have the type of concern you have raised in any appeal you might want to take on a budgetary matter to the OCCPS. I am sorry I have gone the long way around, basically to say in essence that we acknowledge that concern. That is why we have made the change.

Reeve Mowry: But the problem still exists that if I am sitting on a police commission, I submit my budget in November. In budget preparation, I obviously go in high if I am anywhere near human. The finance committee of my municipal council looks at my budget and says: "Hey, we don't agree on this. We're going to have to hack this around." I do not know how familiar you are with municipal budget-setting, but by the time you sit around and wait for other departments and people like the school boards and the county to try to get into the ballpark, you very often do not get around to setting a mill rate till March.

If you have a disagreement and revert back to the high submission, all the police commission really has to say in the interim is: "We don't agree with any of this. You're going to have to appeal it. Therefore, our high submission is now the rule of the book, and we can spend this \$100,000 we have in." My question would be, if we go to the tribunal six months later and it says, "No, we agree with the town council," how do we recover the \$100,000? It is gone and it is out of the ratepayer's pocket.

Hon Mr Offer: Just as a response to that, I tabled a number of amendments at the beginning of last week, 62 in total. One of the amendments dealt with the timing aspect. That is now found in section 39 which states, "The estimates shall"—it is not permissive; it is "shall"—"be submitted at least one month before the beginning of the fiscal year of the municipality or municipalities, as the case may be." Some of the concerns you have just raised dealing with the timing we have, again, acknowledged as very valid concerns and we have said this must be part of the legislation. It is a proposed government amendment to the legislation that I believe will meet the concern you have just raised.

Mayor Wilson: What if it is said that it must be approved? Just because they submit it, you cannot approve all your accounts by a certain time. As Reeve Mowry said, you have several other budgets that you have to take into consideration

too. When you have a police commission submit its budget, then it feels it has done what it has to do. You really cannot tell what the whole picture is until you look at the town as a whole.

Mr Shaw: There is one final point, if I may make it. There is an ambiguity in the legislation that causes a lot of problems in our municipality, and I am sure in others. When does the local police commission, or the police services board as it is now being called, have the authority to go and spend items in its budget that are not on an ongoing basis? This year we had four or five requests in the capital budget. All of those were spent by the time council got a chance to review its budget. Therefore, if we then appealed it and the commission turned it down, there is a problem in that the money has really been spent and the commission is dealing with money that has already been put out.

I am not trying to say I am abandoning our arguments on the democratic process that we brought up before, but at the very minimum there could be something in the legislation that says the commission cannot go and undertake capital expenditures or hire additional staff or spend other unusual amounts of money until this issue has been resolved, either by acceptance at the council level or by a decision by the Ontario Police Commission. Something like that would go a long way to dealing with the frustrations we have experienced at the local level.

Second, there is still a concern on our behalf. How aware is the Ontario Police Commission, as dedicated and concerned as it is, of the local financial situations or of the issues that council is trying to deal with? Quite often they run on platforms of fiscal responsibility, trying to control budgets and things like that. What sort of direction are they going to have to take into account those factors and the wishes of their local, democratically elected body?

Mr D. W. Smith: In listening to your presentations, I can relate to them quite well although I never was on a municipality that had a police commission. In listening to you, I almost get the feeling that you are not needed any more. It almost hit me that way. I came up through the municipal system, and it is hard for us back in the boonies, as I say, where I came from, to think that somebody here in Toronto knows everything that goes on down in our area.

I think I will make one or two comments. I think there has been an amendment put forward already that the chairman of the board will be picked among the members of the board. That amendment has been put forward, so that may alleviate one of your concerns. I was just wondering, what is the size of your police commission now?

Mayor Wilson: Five.

Mr D. W. Smith: It is five members now. So three of them are appointed by the province and two from your own local municipality.

Do you feel that with the way this thing is heading or progressing, the salaries of your police may be headed higher than the norm around Kincardine? Do you sense this may be what happened? Maybe they are above the norm now; I do not know.

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Mayor Wilson: Yes, the town of Kincardine police are above the norm now, mainly because, as you know, Kincardine is in the boundary of the Ontario Hydro nuclear plant. In Kincardine we are up in the very high middle level of wages of policing.

Mr Shaw: It is certainly true that the increases that have been given to the police themselves have been, in every instance I can remember since I have worked there in 1981, higher than the percentage increase given to the rest of the town employees.

Mr D. W. Smith: Would you think it might be fair to say that your Kincardine police would be getting the same as most other policemen all around Ontario? Would you say that is a possibility?

Mayor Wilson: No, they are getting higher than most.

Mr D. W. Smith: Kincardine police are getting higher than most.

Mayor Wilson: Yes, comparing them with the same size of municipality.

Mr D. W. Smith: I will try to cut it down as quickly as I can. Would you say that the amount—I do not know how to relate to it, whether it is summons or charges—of field work that the police have to do in your area is comparable to most other areas? Does each officer have to deal with as many charges or incidents?

Mayor Wilson: As you know, the town of Kincardine has had a few major investigations in the last couple of years. We also are a tourist town. In the summertime we get our bulk of tourists. So we would be higher, I believe.

Mr D. W. Smith: Finally, in the different presentations I have heard sitting around this table there is a real difference of opinion between the elected people and the police associations. It just seems that there is almost a head-on confrontation coming here. I do not know how it is going to be balanced out, but I certainly hear, in anything that I have heard anyway, that the elected people think differently from the police associations.

Reeve Mowry: One of the things that becomes obvious when you talk to our police commission, particularly the people who are doing the negotiations, is that because they are dealing with a unionized body and have a fair bit of expertise being parachuted in from Toronto through their own association—that is fair; that is part of the game—they feel pretty damned isolated and they get pushed to the wall.

The gentleman who is currently doing the negotiations is practically burned out and he and his commission are operating in isolation. So arbitration is the obvious way out. Take it and run. Now we are going to have somebody parachuted in who is going to look at—I shudder to think, but I have heard 18%. Our town employees were given 5.6% because we tried to keep a handle on things, and across the street, literally 300 feet away, 10 people want to even expand their collective unit now and take in the people who are doing the occasional work, the guy they bring in to guard the cells, when we have somebody sitting there on Saturday night. They want to make him part of the collective bargaining unit. They want everybody inside that building to be in, and it sets up a very huge tug-of-war with our municipal workers who are non-union.

Mr D. W. Smith: I think I understand where you are coming from.

Reeve Mowry: I really think the commission is operating in isolation. They are being burned out. They are not getting the support, and they certainly cannot be succoured by council because they will not tell us anything.

Mr Fleet: I am a substitute member of the committee, so I am at somewhat of a disadvantage. I listened with care to your presentation and read the brief, which was very much consistent with the verbal presentation. There has been an amendment proposed that may well resolve the problem, but certainly in its current wording, subsection 39(3) does not make it clear how the appeal process goes forward.

Perhaps more important is the time it takes to have an appeal. I presume it is probably a little bit difficult for anybody today, when it is going to be restructured, to say exactly how long these things will take. But even if it is not in the act, I can see it is useful having regulations dealing with the time limit or some kind of guidelines so that everybody knows how quickly a dispute will be resolved.

But there is certainly nothing in the act which suggests by its nature that it would be expected that the parties involved would not talk to one another a whole lot. I do not know to what extent personalities have come into the situation in Kincardine. I get the impression that it has, but I do not really know the policing or local politics in Kincardine. I am not going to make any suggestions other than that I would think the object of the exercise would be to improve communications all around from everybody's point of view.

What I did find difficult to understand, quite frankly, though, was the principle you set out in your brief and reiterated very forcefully before the committee. You say: "We accept the fact that the government of Ontario feels it must create boards of commissioners of police or police services boards (hereinafter called boards) in order to distance police policy from local politics. It is not a position with which we necessarily agree; nevertheless, it is accepted." Frankly, I do not think you accept it at all.

You go on to state on page 3, "It is embarrassing for a local democratic body to be forced to appeal the decisions of an appointed board, to which the province appoints the majority of members, to a provincially appointed board."

I am really rather surprised at that. That is essentially the way the Ontario Municipal Board, the Environmental Assessment Board, and joint hearing boards work. There are all kinds of boards with which municipalities work in that relationship, and they do so, as I understand the rationale, because the province says there is a certain interest in having some kind of policy consideration, or there may be questions of impartiality or distance from a dispute that some other body can bring to a matter.

It seems to me that is entirely consistent with good management. It is not saying you are going to escape all problems. You will have some from time to time. Certainly school boards will have an impact on a budget, in the same way as a police commission may. In fact, I have heard councillors in Toronto complain bitterly. The school tax portion of realty taxes is over half of what a taxpayer will pay in the city of Toronto.

Unless you are telling me and this committee that you think you want to have all the police commissioners elected, I do not really know that there is a real practical difference for a councillor. I can appreciate that it may be frustrating, and I am certainly in favour—I think everybody would be—if you can get more communication. I do not know whether the policing level and the expense level is appropriate or not in Kincardine. I cannot make a judgement, and you have not really asked us to. I appreciate the situation. We think it is something you would want to work out, and I know you want to work it out, but the principle you have come forward with essentially suggests

something quite contrary to a long-accepted practice and policy within the province.

I am not speaking for the committee. I, for one, really was not terribly persuaded on that principle. I can appreciate the practical problems of having a timely hearing. That makes a lot of sense to me and I have a lot of sympathy that you would want to make sure that things are dealt with as fairly and efficiently as possible, but I think there were two different tracks you were riding along on in this presentation. I guess I just have problems with one of them.

Reeve Mowry: Our intent was not to ride on the two tracks. If you want to sit here and debate the philosophical advantages of having police commissions as opposed to opinions of councils, we will do that. What we really were saying in the brief was that we figure we are not going to topple that horse, therefore we are not even going to try to argue with you because your minds are made up on that. We do not necessarily agree, but we will give it as a given that it is carved in stone, if you will pardon the expression.

What we are really here to say is that there is something rotten with the financial arrangements. Our municipality, just taking one argument, because we figure it is better to try to make one case than 24, is saying to you that there is something wrong in a democratic society when an appointed body can dictate to elected representatives of the people what moneys they will spend. Then they are told, "If you don't like it, appeal to a body far off in the hinterland."

I accept your scheme of things, but I will tell you that in all practicality it will be months, and in the meantime the money is gone. Now the fine or the retribution comes back. It will be a slap on the wrist, "Don't do it again." The money is spent. The mill rate has gone up. If you have all sat on local councils, you know that when the mill rate goes up, it very seldom ever comes back down. So the impact is there. Or will the police commission repay the municipality and therefore the mill rate is going to be impacted again, because where does the commission get it? They sit beautifully: "If we're wrong, sue us. If you win your law case, you pay. If we're right, you pay the legal fees for the appeal and we still get what we want." That is like having your cake and eating it too.

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That is our problem. We are talking about the money bit. The other I will gladly argue with you until the cows come home, but I do not think I would convince anybody around here. There is a problem. This is how you deal with it. But the problem we are worried about is the fact that our costs are getting out of hand and we are being told, literally, "It's none of your business." We are appointed. The act gives us this power. As I said, at 7:10 on the night of a council meeting, you should warn your council that if it dares to cut this budget, it could be charged. Now if that is not blatant intimidation, I would like to know what it is. That is digging in and defending our rights, and the people who are going to change it and enable that bypass to be removed are the people sitting around this committee room.

It is not right that somebody can tell me I must charge my ratepayers and then at the same time say, "But you can't question what we're charging them for before the process." If I can get a dig in, if it takes as long to resolve some of these disputes as it has taken to resolve pay equity in my municipality, the money will be spent and gone by the board for three years. We have a dispute now and we are told: "We'll get there some time. Hold on." That is the unfair part about it, that a group of people

can hand us a budget, revert to buying stuff, come over and hand me an invoice for a car with a note stating, "30 days, payment due," when I have not even decided whether I need to buy a new truck for my works department. In my municipality, believe me, a new truck was more badly needed than getting rid of a second-year police cruiser. But I did not have those decisions.

Mr Shaw: I understand what you are saying. Apparently we did not make it clear enough in the brief about the two points. What we are exempting is the fact that the province wants to limit political control over the operation of the police department, who does what and all that sort of stuff. Given, and we will accept that. What we are really trying to say is it is the fiscal control. When we have to make a choice between whether we are going to put money into capital equipment in the police department or into the sewage system or something like that, my council feels its hands are tied in that respect, because sometimes those decisions are made for it, which sometimes takes that choice away from it and it is forced to make cuts in other departments that it may not have otherwise made.

That is where the frustration comes in. It is a difference, which we are trying to address, between the operation of the department and the level of funding that it receives. Our council is asking for more control over the level of funding. Certainly they would like, at the very minimum, that it is clear in the legislation and its regulations that police commissions cannot go ahead and spend unusual amounts of money in regard to capital or extra policemen or things like that until the budget is resolved, either by council or by the Ontario Police Commission.

Mayor Wilson: I have one last comment before you finish off, Mr Chair. First of all, I would like to thank you for your full attention in listening to our brief. I would like to make one final comment, though. I think it is about time that perhaps the province and the municipalities started listening to one another.

I should say the OPP just outside the town and Kincardine have a very good relationship. In fact, we would have been in big difficulties with our major investigations without their help. However, we have our town police building and we have an OPP building that is about a quarter of a mile outside the municipality. They are within a mile of one another. I am wondering, is this the best way to spend our money? Any municipality, from what I understand, cannot go and ask for OPP costings without the consent of its board, and if you cannot get the consent of your board, the municipality is left. They cannot do anything. Thank you.

The Chair: Thank you very much for your brief and for answering the questions of committee members. I am sure it will be useful to the committee and the Legislature when we finally dispose of this legislation.

CHAVIVA HOŠEK

The Chair: We have a minute or two before our next presenter is supposed to come forward. I have been requested by the member for Oakwood, Chaviva Hošek, to read a letter into the record dealing with the matter referred to the committee. I will take this opportunity to do so.

"Dear Mr Chairman:

"For three years, I have been working in the city of York with one of the province's largest black communities. As a citizen, and as MPP, I would like to submit the following state-

ment to the committee with respect to the hearings on Bill 107, the Police Services Act.

"One of the fundamental tenets of our democracy is that policing is a service accountable to the civilians—and not the other way around. The recent shooting of Marlon Neal is a sad reminder that when this principle is blurred, everyone suffers.

"In amending the Police Services Act we must take whatever steps are necessary to restore the proper locus of control, either by reforming existing structures or creating new ones.

"In addition, we must not hesitate to reassure those who serve so ably on our police forces that they have society's support for the vital task of maintaining civil order. It is insufficient to acknowledge the pressures of police work and not provide the resources to handle such pressures. These resources should include:

"Improved means of assessing stress; opportunities for individual counselling; more sensitive training regarding the use of force; mandatory employment equity goals with specific timetables; ongoing race relations training.

"Too many people—on all sides—have been hurt by too many of these incidents. What is needed now are not expressions of temper and defensiveness, but genuine reform, timetables for action, and a reaffirmation of our commitment to community decision-making and the human rights of all our citizens.

"Yours sincerely,

"Chaviva Hošek, MPP, Oakwood."

She asked that that be read for the purpose of the record.

We do have another presenter who was supposed to be here at 1 o'clock, one Dahn Batchelor. I understand that person is not here at the present time. I see by a note here that he is on his way, so we will recess the committee for five or 10 minutes until his arrival, if that is in order. Or are there any other comments?

Mr D. R. Cooke: We have been given a second brief, I understand, by the Canadian Civil Liberties Association. I understand they met with the Solicitor General yesterday. Is this worthwhile reading? I just wondered if there is anything you care to tell us about that.

The Chair: The clerk indicated that he thought this was a copy of the original brief that they presented. Or is this a new one?

Clerk of the Committee: This is their only written submission to the committee. When they appeared, they did not have a written submission.

The Chair: If there are no other questions or comments, we will recess for 10 minutes, awaiting the arrival of Mr Batchelor.

The committee recessed at 1255.

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DAHN BATCHELOR

The Chair: Our next presenter is Dahn Batchelor. I will ask him to please take a seat at the table and proceed. We normally allot 30 minutes, but in view of the fact that we are late getting under way and a number of members have to go to the House for House duty at 1:30, we hope to be able to wrap it up at around 1:30, if that is possible. Please proceed.

Mr Batchelor: I will read fast, and if the members cannot catch up, they will get copies later and can take it at their leisure.

In 1969 the Ouimet committee published in its findings an interesting observation about police accountability when it said:

"The police must be prepared to receive and discuss communications from the public. Sincere criticism—even when unfounded—must not be confused with an attack upon police or an indication of an antipolice attitude."

When I was studying criminology at the University of Toronto, I had the good fortune of having Alan Grant as one of my professors. He had previously served in a police force in the United Kingdom and had worked his way right up to the rank of chief inspector. In a paper he wrote which was published in 1973 as part of the Osgoode Hall Law School annual lecture series, he made an interesting remark, and I quote in part:

"The time is now right for a reassessment of the balance between police power and individual liberty. Past means of control may well have been relevant to past ages, but we must seriously consider whether our present framework takes account of the vast increase in police power which has occurred since the foundations of our current restrictions were laid."

What Professor Grant said in 1973 can be said today, 17 years later, notwithstanding the fact that since then the Charter of Rights and Freedoms has entered our lives as a shield against police abuse.

I do not intend to review these recent shootings, because that will be done by the courts, but surely there is something in the police psyche that makes some of them trigger-happy. But what really concerns me is that many police officers simply could not care less.

For example, a number of months ago I was in the hallway of the criminal court at College Park getting ready to defend a client when I noticed a large number of police officers congregating near one of the courtrooms. I asked several of the police officers what the occasion was and not one of them gave me a straight answer. I later learned that they were attending court in support of one of their fellow officers facing a criminal charge relating to the shooting of a black person. Every one of those officers was in uniform, and I wondered and still wonder if they were in fact on duty and we the taxpayers were subsidizing their presence in that court when they were supposed to be on duty somewhere else. Just recently, we have read and heard about the members of the Peel Regional Police Force wearing support pins on their uniforms to show solidarity for one of their own facing criminal charges for shooting to death a black person in their area.

I can appreciate the importance of moral support, but it did not come across to the other people in the College Park hallway that the police officers blocking the hallway were responsible citizens. I do not think a citizen in Brampton or Mississauga who is questioned will be impressed with the Peel Regional Police officer when he or she has to look at a pin that shows support for a police officer who shot to death another citizen. If this kind of conduct is permitted, the cops will eventually be doing what they did in Sacramento in April 1981 when a cop killer was sentenced to the gas chamber. The cops began wearing T-shirts showing a hangman's noose and with the words "Adios Louie" emblazoned on them.

Whenever there is a trial in which a witness is giving evidence, there is not a police officer to be seen when he is finished giving his evidence and wishes to leave the court building unmolested by the friends of the accused. Years ago, I witnessed a hit-and-run accident and called the police. My tes-

timony convicted the hit-and-run driver. When I was leaving the courtroom, the accused and her friends gathered around me and began berating me, saying that I had lied and that they were going to get me for what I did. I saw a police officer nearby and asked him if he would escort me to my car. He refused my request, saying that he was too busy. I suppose there is truth in the old adage that when you need a cop, none is to be found, and when you do not need them, they are walking all over you as if you are lying in the middle of a police parade.

If I sound like I am antipolice, I assure you that I am not antipolice, any more than I am against motherhood simply because I condemn a mother who throws her children out the window. What I am against is indifference, laziness, sloppiness and outright dishonesty in police officers. Considering what we pay these people as professionals, we should expect nothing but professionalism from them. Unfortunately, what we are sometimes getting from some of them is at best negligence and at worst criminality.

To suggest that police officers in Metro Toronto and elsewhere do not harass and brutalize citizens is to show a lack of concern and knowledge of such matters. Admittedly, there have been vast changes since the onset of the charter. Metro Toronto police officers no longer throw handcuffed suspects into Lake Ontario from Cherry Beach to elicit confessions and there are no more stories going around about detectives in the holdup squad forcing broomsticks up the rectums of their suspects or hanging them out third-storey windows by their ankles. This is probably because the officers who were accused of these disreputable acts have since left the police force.

It seems that nowadays we are hearing more of police shootings than outright cruelty, but that is probably explained away by the fact that the Criminal Code prohibits torture by any police officer or other official and any police officer found guilty of torturing a suspect, as they have in the past, can find himself susceptible to imprisonment for 14 years.

When the Metropolitan Toronto Police Force Complaints Act came into force, I was pleased as punch, partly because I had a small hand in drafting it and, more important, because at long last police complaints could be handled by citizens instead of the police themselves. It was fitting that the first commissioner should be none other than Sidney Linden, the man who actually played the biggest part in bringing us the act in the first place. On one occasion, I met Mr Linden at his request and we discussed at some length some of the progress he had made. I found him to be a very conscientious man, dedicated to acting as a mediator between the police and the public and learning the truth of the allegations of members of the public.

His reports were brilliant and, more important, thorough. I refer you to his second annual report, 1983, in which he published one of the cases he worked on. His report on that case dealt with a mundane complaint by a citizen who felt that a police officer should not have ridden his motorcycle on the shoulder of the highway in his attempt to apprehend the complainant. Mr Linden, now Judge Linden, must have spent a long time going over that case because he dedicated 25 pages of his report to that one incident.

His response to a complaint is vastly different from that of his successor. Let me give you an example of what I mean. In December 1983 I was serving a woman with a district court writ when her husband, who was an ex-boxer and an ex-bar-room bouncer, attacked me from behind and tried to drag me back to their apartment. I managed to reposition myself and, after facing him squarely, I hit him in his face so hard that I broke my hand. He fell to the floor unconscious. I then left the

apartment building and immediately reported the incident to the police.

A month later, I got a call from a Sergeant Harry Davies of 31 Division asking me to meet with him at the station to discuss the incident of the previous month. When I got there, I told him that the complainant had tried to drag me from the foyer of his building to his apartment and that I struck him to get away. The sergeant asked me if I hit the man with an object and I denied it. The sergeant then asked me if he could look into my car, and I gave him permission to do so. He observed my 14-inch, five-celled flashlight, which I used to light up house numbers when driving up and down streets looking for addresses I wanted when serving court documents, and Davies brought it into the station. Davies accused me of striking the complainant with the flashlight. He said that I must have used the flashlight because the complainant told him that no one ever knocked him out with one punch. Then Davies arrested me on the spot and charged me with assaulting the complainant with a weapon—to wit, the flashlight.

I then told Davies that a parking control officer with the Peel Regional Police lived in the building and that just before I entered the building we talked for a few minutes and he would tell Davies that I did not have the flashlight with me when I entered the building with him. I asked Davies to locate the witness and talk to him. I did not learn until my trial seven months later that Sergeant Davies never once made any effort to contact the witness, notwithstanding the fact that he had a duty to do so.

When the matter came to trial, the complainant and his wife both testified that they did not see anything in my hand but a copy of the writ, and that if I had the flashlight in my hand or had struck the complainant with it, they would have seen it. Further, the complainant admitted under oath that he only saw my fist coming towards him and not a flashlight. I was acquitted.

While waiting for my trial, I began suffering from chest pains, and shortly after the trial I was hospitalized. The heart specialist concluded that the suspense of waiting for my trial, especially when I believed I was being framed by the police, had caused me to suffer from a very severe attack of angina. It took over a year for the attacks to finally go away.

I filed a complaint with the police, and the chief of police asked the public complaints commissioner to take over the investigation. The complaint was filed in the beginning of 1984. Clare Lewis, the public complaints commissioner, gave his final four-paragraph report on 4 October 1989, almost five years later. He summed it up by saying, and I quote in part, "As a result of my review, I am unable to conclude, based on the evidence available to him at the time, that Sergeant Davies acted in bad faith."

The fact that Davies did not make any effort at all to find my witness, who would clear me, was of no significance at all to the commissioner, notwithstanding the fact that it was his duty to make the effort. The fact that Davies stated in his written statement that I fled the scene when at the trial the wife of the complainant said I merely turned away and walked out of the building, that did not bother the commissioner. The fact that I reported the matter immediately to the police and gave Davies the badge number of the police officer at the desk, and that Davies not once asked the officer if I reported the incident to him, that did not bother the commissioner either. The fact that Davies admitted in court that he did not give me my rights until he had questioned me for 40 minutes in a small room and then listened to my telephone conversation with my employer after

he told me that I could make a call did not seem to concern the commissioner one bit.

Last, the fact that both the complainant and his wife testified that they did not see the flashlight, let alone me hit the complainant with the flashlight, notwithstanding the fact that Sergeant Davies merely presumed I did, did not mean a thing to the commissioner. He still maintained that Davies did no wrong.

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But what really bothers me about the non-action of the commissioner is my complaint that there was complicity involving senior officers, making it possible for me to be convicted of a crime which I did not commit.

At the time I was charged with assault with a weapon, Davies asked me if I told the complainant that I was a peace officer. I admitted that I did and that section 2 of the Criminal Code defines a peace officer as to include "other person employed for the service of civil process." I told him that since I serve civil process for the various courts, while I am serving those documents I am acting as a peace officer.

I further told him that the day before my arrest I charged a man with obstructing a peace officer and that the justice of the peace consulted with a judge of the Newmarket court and they both concluded that I was a peace officer.

I pointed out to him that I was responsible for a charge of assaulting a peace officer against a man who assaulted one of my fellow process servers and that the trial judge and the prosecutor, both in the Etobicoke court, concluded that the private process servers are peace officers.

I also told him that I had a meeting with the senior justice of the peace, Mr Kashuba, and with the senior assistant crown attorney regarding my position that private process servers were in fact peace officers by virtue of the Criminal Code and the Interpretation Act of the Revised Statutes of Ontario. It was agreed at that meeting that we would abide by the decision of Mr Kashuba, and he concluded that I was right.

I also told Davies that I had meetings with senior police officers and government officials and they concluded that I was right; that is, that private process servers are peace officers.

Despite this, Davies charged me with impersonating a peace officer, notwithstanding the fact that to be convicted of such a charge, an accused must know he is not a peace officer. I told Davies that, considering the aforementioned, it would be impossible to convict me. I was right. The judge acquitted me and although the crown appealed and Judge Kane of the district court convicted me, I myself took my own case to the Ontario Court of Appeal and argued that if I was not a peace officer, mistake of law is a proper defence and they and the crown agreed, and again I was acquitted.

It came out at my trial that Davies did not make inquiries as to whether or not my legal position was as I stated. The commissioner did not feel that omission on his part was bad.

What does disturb me, however, is another aspect of this case about two senior police officers involved. It seems that a few days before my trial, Mr Kashuba received a personal visit from two high-ranking police officers, whom he described in the following manner: "I couldn't believe my eyes when I saw who they were."

Those two officers wanted to know if it was true that I was at that meeting and that he had advised me that private process servers were peace officers. He confirmed it and told them that they could confirm what went on at that meeting by speaking to the deputy crown attorney.

There is a policy with police forces that is adhered to all over the world. If the police discover that an accused person may be innocent, it is incumbent upon them to bring this disclosure to the prosecutor and the defence. I do not know what was told to the prosecutor, but neither I nor my lawyer was told of this secret meeting between the senior justice of the peace and those two senior police officers.

In my complaint about Davies, I brought this concern to the commissioner's attention, and he did not investigate it. I know this for a fact because I later met with Mr Kashuba and he said no one had made further inquiries about the meeting or the visit by the two senior police officers. I can only presume that somebody got to the commissioner. Otherwise, why did he not look into that aspect of the complaint? As a former judge, he knows the impropriety of the police keeping that vital information from the defence in a criminal trial. It was a very serious complaint, and yet he ignored it.

Years ago, when I was attempting to serve a summons upon a witness who was known to be quite violent, I called the police and asked if an officer could accompany me. The sergeant at the station refused to send one, so I filed a complaint against the sergeant. The commissioner concluded that there was not an obligation for this sergeant to send an officer to protect me against an anticipated breach of the peace. The sergeant was the son of a former police chief.

In 1984, I filed a complaint against a former Inspector Prior when he was a staff sergeant with the police complaints bureau. I told Prior that my complaint about an inspector, a complaint which incidentally was later considered valid by the former complaints commissioner, was to be treated as a complaint and not as a mere inquiry, which meant that nothing of the complaint would go to the public complaints commission.

When he continued to treat my complaint as a mere inquiry, I hung up in his ear. Deputy Chief Noble concluded in his report that since I hung up on Prior's ear, I appeared to Prior as being uninterested in continuing with my complaint and, as such, Prior was then justified in not sending my complaint on to the public complaints commission. As a result of that specific complaint against Prior and others similar to it by others, it is now the law that all complaints are to be regarded as complaints and not merely as inquiries. As such, copies would go directly to the public complaints commissioner.

Staff Sergeant Prior, notwithstanding my complaint, was shortly thereafter promoted to the rank of inspector and has since resigned from the police force because of disreputable conduct.

Professor Allan Grant summed up this problem of burying complaints when he said in his 1973 lecture series, "There is a need to overhaul internal discipline systems which permit the police to be judge and jury in their own cause in those cases where a citizen makes a complaint against an officer."

The Metropolitan Toronto Police Force is not the only police force that has problems with its complaint systems. A number of years ago, a former employer of mine asked me to file a complaint on his behalf against an inspector in the Peel Regional Police Force. The hearing was set and I and my client appeared before the board of commissioners. The chief asked me to have my client stand outside while they talked with me alone.

When my client left the boardroom, the chief began berating me for complaining against the inspector and then began questioning me about complaints I made in Toronto on my behalf and those who retained me to look into their complaints. This was totally wrong. I told him and the commissioners that

what they were doing was wrong, then I called my client in and we proceeded with his complaint. I naturally wonder who told the chief about my complaints that were filed in Toronto. It is supposed to be secret.

That chief was not the first one to try and browbeat a complainant or his representative.

In April 1978, I filed a complaint against a police officer named Thomas Sinkovich, who ordered me from a fire, even though I showed him proof that I was a newsman at the time. When he got back to the station that night my complaint was brought to his attention. He copied down the pertinent information from my complaint form, along with my unpublished phone number and the new address of an office I worked out of in Mississauga. Then he laid a charge against me for allegedly obstructing him by not walking to my car when he told me to do so.

The trial lasted one day a month for five months. Evidence came out that showed that he perjured himself a number of times while giving his testimony at my trial. His major perjured testimony was his statement that he had never seen my complaint. When asked where he got my date of birth, he said it was on my private investigator's licence. When that proved to be false, he said that he called the registrar's office, but since they close at 5 and he called at 9, that proved to be a lie also.

When asked where he got my new office address from, he said that I showed him a letter with the address on it. The police knew that was a lie because they checked the post office and learned that I would never have got such a letter delivered to me without the suite number being included.

The officer swore under oath that he did not let anyone into the area because the fire was too dangerous, notwithstanding the fact that a Salvation Army major testified that this same officer let him and his two children into the area of the fire to hand out sandwiches to the police and firemen when the fire was at its greatest intensity, and this was hours before I even arrived on the scene.

What was most interesting about this particular charge was that Sinkovich had not made an entry in his notebook about our confrontation at the fire scene. When my complaint was being heard by the Halton Regional Police Commission, the chief said to the commission right off, and I will paraphrase him, "I have told Officer Sinkovich that if this man continues with his complaint, he should sue the man." The chairman, who was a judge then, said for the record that I had every right to proceed further if I was not satisfied with their decision.

The commission later concluded, however, that Sinkovich had done no wrong. I complained against the chief for his outburst and attempt at threatening me in their presence from exercising my right to proceed further if I did not accept the ruling. The commission concluded that he too had done no wrong.

I later learned that at the time of my complaint Sinkovich was the head of the local police association and was negotiating with the chief regarding salary increases for the police officers.

I then filed my complaint against Sinkovich with the Ontario Police Commission and submitted part of the transcript of the trial showing the perjured evidence. I later got an answer, not from the chairman but from some underling, stating that Sinkovich had done no wrong. When asked for some explanation as to how they concluded that he had done no wrong, the underling wrote me back saying he did not have to disclose that reason. The Ombudsman ordered the chairman to make a proper reply or he would order an investigation into the matter.

I later learned that the Ontario Police Commission had recommended to the Strathroy Police Commission that they

hire Sinkovich as their new chief of police and that at the time the Ontario Police Commission was going over my complaint, it was in hot water itself over Sinkovich's appointment. It seems that the Strathroy Police Commission had asked the Ontario Police Commission to conduct a hearing over Sinkovich's fitness to remain as its chief.

The Ontario Police Commission concluded that Sinkovich was unfit to be a chief of police, and three days after I flew back to Toronto from speaking at a United Nations crime conference in Milan, I received an invitation by the mayor of Strathroy to address the Strathroy Police Commission, which had called a hearing that would determine if Sinkovich was to remain as chief. They were interested in my opinion.

There are many moments in my life that I cherish, but few moments like the one on the night that I addressed the commission; it was one of my greatest. Since the Ontario Police Commission had likened Sinkovich to a Roman Caesar, I picked up on that and began with a line that brought the house down. I said: "I find myself in a strange situation, not unlike that of Mark Anthony when he was addressing the citizens of Rome. He said, 'I am not here to praise Caesar, I am here to bury Caesar.'" And bury him I did—an hour later he was fired.

As an interesting aside, the chief of police in Oakville, who told me and his own police commission that Sinkovich should sue me for filing my complaint against him, was the same chief of police who later told me that, in his opinion, Sinkovich should go to jail. Obviously Sinkovich was not the head of the police association any more and the chief did not need to protect him.

In 1988, I was asked to handle an account of a major trust company. The account was for \$10,000. I instructed the sheriff to seize the moneys owing to the trust company from Anton Earl Squires. This was done.

While the money was in the hands of the sheriff, the judgment debtor went to a lawyer and swore an affidavit that he was not the same person whom the judgement had been signed against. When I looked at his unusual signature on his affidavit, it matched the signature of the man who incurred the debt. When I sent a copy of his signature to his lawyer who commissioned the affidavit, she promptly dropped him as a client. He went to a second and then a third, and they dropped him when they realized that he had sworn a false affidavit.

The money was held in abeyance for so long that a creditor who learned of the moneys being held by the sheriff and who had a much larger judgement claimed almost all of the moneys seized as his own. My client got very little of the money seized because of the affidavit falsely sworn by the debtor.

Subsequently, I complained to the deputy sheriff handling the matter. After studying the two signatures, the sheriff's department turned the matter over to the police. For months, no one in the police department did a thing. I finally learned that a Sergeant Reynolds of 52 Division had been given the case to investigate and that he was doing absolutely nothing with it.

I wrote this sergeant and complained to him that he was doing nothing, and he responded that he had better fish to fry than a mere false affidavit involving \$10,000. He said the sheriff's department should have investigated the case. They, in turn, said that the police had it and it was their case to investigate.

1330

I told him on 15 July 1989 that if I did not get a satisfactory explanation from him as to what was being done in the case, I would lodge a complaint against him. He did nothing in

response, so on 31 July, I wrote Chief McCormack and complained that Sergeant Reynolds's inaction was intolerable.

I did not get a reply from the chief or anyone else, so on 5 November 1989, I wrote the chief again and in my letter I wrote in part:

"I would appreciate having this matter looked at immediately, as it boggles the mind to think that a crook like Squires can swear a false affidavit with impunity and no one can touch him for it. Does he have connections in high places which assures him that he will not face any more criminal charges? If you think that question is rhetorical impertinence, consider the fact that no matter how much evidence of his perjury is brought to the attention of the authorities, nothing is done about it. In fact, the complaints, be they against Squires or Reynolds, just end up being buried."

It has been seven months since I wrote that last letter and, to date, I have heard absolutely nothing from the chief, his complaints bureau or the public complaints commissioner. The fact that the sheriff's department felt that there was a case against Squires did not seem to faze the police at all. But then nothing about this case surprises me when you consider that Squires was still licensed as a car salesman, even though he was charged with car theft.

I am telling you that the complaints against Squires and Reynolds have been buried and the man who handled the shovel has to be Chief McCormack himself. I do not know why nothing has been done about the complaints, but it does seem odd that no one from anywhere has responded.

I refer you to form 2 of the Metropolitan Toronto Police Force—

The Chair: I would like to inquire at this time how much more there is on your brief?

Mr Batchelor: It is doublespaced and there are six pages left.

The Chair: We only have a minute or two left.

Mr Batchelor: Perhaps I could get down to my recommendations, which are just two pages.

The Chair: That would be helpful. I must say that you are giving the Hansard reporter a level-10 exam.

Mr Batchelor: I am appearing before you today to ask you seriously to consider giving the proposed Ontario Civilian Commission on Police Services the power to investigate or reinvestigate criminal cases if it appears to the chairman of that commission that the case is being or has been bungled or if it appears that an innocent man or woman may in fact be in a situation where such a person is being framed by the police.

Such a second investigation should not be undertaken by the police force that initially handled the case. There is simply too much chance that the bungling or dishonesty will continue to flow like bad blood through the police department until the accused finally succumbs to the ineptitude or dishonesty of the original investigators.

Time prohibits me from outlining what my views are with respect to what the criteria should be in determining when the original police investigators should be pulled off the case, but I think that at least the following might be acceptable.

If a suspect or his lawyer feels that the police are not conducting the investigation properly, they should be able to call upon an outside body such as the proposed commission to either supervise the investigation as an interested party or, alternatively, take over the investigation.

It goes without saying that the results of the investigation should be turned over to the original police force involved, although not necessarily the original investigators.

We are in an era where we expect professionalism from our police officers. If ineptitude, laziness, poor training or simply a heavy case load makes it impossible for a suspect to get a fair, honest and thorough investigation into the crime he or she is accused of, then that person has a right to look to a higher authority to search for the truth.

Looking to a higher authority to search for truth and justice when investigating crimes, especially when the accused has an alibi, in my respectful submission, does not mean higher ranking officers in the particular police force conducting the original investigation nor the members of its police commission or, for that matter, from the commissioner of the Toronto complaints commission. To search for truth and justice from these sources

is as useless as searching for life in a suffocating tomb. These people have shown us all that the search for truth and justice must be found outside the suffocating confines of their authority.

That is basically it, except for some cases that I did not get to.

The Chair: Thank you very much, Mr Batchelor. We appreciate your coming before the committee and sharing your recommendations and comments. The clerk has indicated that he will take a copy of your brief and provide copies to all of the members of the committee, and I am sure also to the Hansard reporter. So on behalf of the members of the committee, I want to thank you for coming before the committee.

The committee recessed at 1334.

AFTERNOON SITTING

The committee resumed at 1551.

The Chair: The committee is in the process of considering Bill 107, Police Services Act, 1989, and the report of the Race Relations and Policing Task Force.

As a preliminary matter this afternoon, I do want to point out that the Solicitor General has tabled a reprinted act to show the amendments proposed by the Solicitor General. I am going to ask the committee to approve the particular reprinted act and I am going to pose a question to the members of the committee.

Does the committee give unanimous consent to use Bill 107, An Act to revise the Police Act and amend the law relating to Police Services, as reprinted to show amendments proposed by the Solicitor General? Is there any comment or question on that?

Mr Philip: Of course all my amendments are printed in it as well.

Agreed to.

The Chair: The reprinted act is now adopted by the committee.

DISABLED PEOPLE FOR EMPLOYMENT EQUITY

The Chair: Our first presenter this afternoon is the Disabled People for Employment Equity, represented by Carol McGregor and Grace-Edward Galabuzi. I would indicate that we allow 30 minutes per delegation, which includes time for questions.

I would also indicate to the people in the audience that we may have to recess for about 10 minutes for purposes of going back into the House for a vote if the bell rings. We will have a five-minute bell for a particular piece of legislation which is going to be voted on in the House. Please proceed.

Ms McGregor: Thank you very much. Ladies and gentlemen of the committee, we are very grateful for this opportunity to address you on an issue that is of critical importance to persons with disabilities.

Disabled People for Employment Equity is a broad-based coalition of over 20 consumer groups and voluntary agencies representing a spectrum of persons with disabilities living in Ontario. We have been active since 1985, pressing for the implementation of the recommendations in the report of the Royal Commission on Equality in Employment.

This report clearly illustrated the extent to which people with disabilities, native people, visible minorities and women have borne the brunt of disadvantage economically, educationally and socially. The report shows that these groups share high levels of unemployment, low socioeconomic status, concentration in low-level jobs and limited access to the decision-making process which critically affects them.

The continuing vitality of our coalition and the unity of our members on the measures that the Ontario government must take to eliminate discrimination in employment are indications of the resolve our member organizations possess to achieve this goal.

As citizens of Ontario, we are concerned about policing in the province as a whole, especially in light of the increasing complaints by disabled women regarding the police attitudes

towards violence against them. For this submission, however, we will restrict our comments to an area that we are best suited to comment on.

We, as disabled people, are gratified that the government of Ontario has seen the need to reform the Police Act, to provide for more representative police forces across the province through the implementation of employment equity.

However, we have very serious reservations in regard to section 48, which deals with employment equity. There is no guarantee that the attempt in the proposed act to remedy systemic discrimination in employment in the police forces will include persons with disabilities. This act does not provide for an effective enforcement mechanism, which would be critical for the success of any employment equity program. Furthermore, the act proposes the use of a best-efforts approach, which is not results-oriented.

We believe that this will seriously impair any efforts to implement meaningful employment equity in the police forces. More specifically, these are immediate concerns that we feel should be addressed.

1. There is no clear definition in the act as to who the prescribed groups are. We are left to believe that like some of the police forces that currently have employment equity programs, plans under this act will target women and visible minorities to the exclusion of persons with disabilities.

We believe that this is a fundamental flaw in the program, because not only can persons with disabilities be employed as non-uniformed staff, persons from some disabled groups can perform adequately as uniformed police officers. For instance, persons with epilepsy or specific learning disabilities can indeed fulfil the prescribed duties of a uniformed officer.

Disability should not be used in any measure as a barrier to employment or promotion of an employee in the police force.

2. Enforcement: The process of enforcement provided for in the bill is inadequate. We believe that the commission with the responsibility of enforcing employment equity plans should be empowered to levy fines in the event of non-compliance. This should be in addition to the other measures outlined in the bill.

It is also our contention that the said commission should have equal representation from the designated groups, namely, women, visible minorities, aboriginal people, francophones and persons with disabilities. We want to reiterate that without a strong enforcement mechanism, this program will not go beyond the best intentions of the legislators.

3. Targets and timetables: There is no mechanism to establish targets and timetables to provide directions for police forces. In fact, the approach is a best effort, requiring police boards and police chiefs to only make a reasonable effort. This is subjective and in essence voluntary. We need a results-oriented approach that ensures that targets and timetables that are set relate working-age population data to the situation in the workforce.

In this respect, we propose that the commission responsible for employment equity devise a formula that relates a proportion of designated group members in the potential workforce to the personnel demands of police forces throughout Ontario. The formula should be sensitive to the fact that different target groups are concentrated in certain geographical areas. This measure would have the effect of standardizing the process of hiring and promoting designated group members across the

province. It would also aid personnel managers in setting realistic targets and timetables.

We believe that the act, when making reference to positive measures, should specify reasonable accommodation as a key requirement for implementing employment equity. We are aware that in the past and the present, police forces have had difficulty with reasonably accommodating persons with disabilities who are employed by them. For persons with disabilities, no attempt to implement employment equity that excludes reasonable accommodation can be taken seriously by our community.

While we continue to wait for the provincial government to act on its five-year-old promise to legislate mandatory employment equity covering the public, broader public and private sector, we consider it critical that any employment equity initiative by the government should include persons with disabilities.

1600

Our plight as persons with disabilities with regard to finding employment is well known to many of you. The unemployment rate for persons with disabilities is between 60% and 70%, which is a disgrace to this province. The government, therefore, should make use of every opportunity to target persons with disabilities for employment and promotion. The police forces of Ontario and public institutions should be front and centre in meeting this responsibility.

Once again, we would like to thank the committee for this opportunity to address the issue of employment equity in police forces with respect to persons with disabilities. To our knowledge, this has not been raised in any other prior submission before the committee.

Attached to this submission is a list of our member agencies, which I will not read at this time.

To my right is Grace-Edward Galabuzi, the co-ordinator of the Alliance for Employment Equity, and he and I would be glad to answer any questions. Thank you.

The Chair: Mr Galabuzi, are you going to make some comments or are you just available for questions?

Mr Galabuzi: I will just answer some of the questions that you may have for us.

The Chair: Okay. The Solicitor General has some preliminary comments.

Hon Mr Offer: Thank you for the presentation. Just as a preliminary matter, I know that in your submission your concern was that employment equity is basically to visible minorities. That is not the intent. Employment equity is, as you know and we all know, much wider than that and this particular piece of legislation is not meant to be narrowly defined.

The second aspect I want to bring to your attention is that under section 23 of the legislation, if there is not compliance with an employment equity plan, there are sanctions that could be ordered, which could be suspending a chief or in fact removing a chief. We believe that those sanctions are part of the particular piece of legislation.

Last, the point of timetables has been brought up on a number of occasions in the area of there not being timetables. In fact, if the point is made that there is not a single timetable for every municipality that is the same, then the point is correct. But if the point is made that there are not timetables, which are necessary under the legislation, then that is incorrect.

There is the necessity for timetables. We recognize that they have to be reflective of the particular community because dif-

ferent communities are different in dealing with the amount of people who are part of the police force and the growth of the area. So there are timetables under the legislation. The timetables are mandatory, but the timetables will be different. I just wanted to bring those points to bear.

Mr Kanter: Mr Offer really referred to the area of my question. It relates to your statement about the act not providing for an effective enforcement mechanism. I guess Mr Offer has pointed out the ultimate sanctions under section 23 where a police chief could be suspended or removed.

The bill also contains very specific provisions for the chief under section 41, where one of his very specific duties that is explicitly mentioned in the act is to implement the employment equity plan. The new municipal police services board under section 31 has the responsibility to establish an employment equity plan in accordance with section 48 and the regulations, to review its implementation by the chief of police and receive regular reports from him or her on the subject.

It seems to me that the employment equity is a major part of the act and there are fairly clear obligations on various players with respect to doing something about it, including, I would have thought, a fairly tough sanction of suspension or removal of the chief of police.

I am wondering if you could comment on why you do not feel that would be an effective enforcement mechanism or, in the alternative, what you feel would be an effective enforcement mechanism.

Mr Galabuzi: I think that the combination of this being a best-efforts approach and simply requiring the suspension or removal of the chief of police leaves us in a position where that is very unlikely to happen.

Mr Kanter: What would you suggest, if you feel that is not adequate?

Mr Galabuzi: I would suggest that either the police force be fined or money be withheld by the government if it is funded.

Mr Kanter: Why would you think that would be more likely to occur?

Mr Galabuzi: You see, we are not as interested in the police chief walking out the door as we are interested in changing the situation that remains there. I am not convinced and do not think that Carol is convinced that moving one police chief out of a place would necessarily get them to implement employment equity. I think if you attack the subject from the point of view of their resources, that will hurt them a lot more and they are more likely to see the need to implement employment equity.

Mr Philip: You have a chief of police who goes through the motions but really is not committed to doing everything possible to bring about an effective equity program. If the penalties are either nothing or something as dramatic as removing him from his job, in the interests of not polarizing a community and creating one heck of a mess out there, the Solicitor General or the authorities will probably do nothing and therefore he will continue to operate in that way. Is that what you are saying?

Mr Galabuzi: That is precisely what we are saying. We are saying the reality is that it would be very difficult to remove a police chief. We are also saying that once that police chief is moved, knowing how the police forces work—there is a buddy

system in the police forces—they will close ranks in the sense that they will more likely fight for what he represented than what you expect to get, which is a reverse of what he represented, a refusal to implement employment equity.

So it is much more likely to expect results by attacking the issue from the point of view of resources. Let the police chief stay in place, but let that police chief have less to work with up until he or she—most likely he—gets around to implementing employment equity.

Mr Philip: There are two proposals that Dr Hill and Alan Borovoy from the Canadian Civil Liberties Association have suggested might be of assistance to you in what your objectives are, and I want to ask you about that. One is that there be an independent audit function so that you could deal with those grey areas, if I might use that term, where someone is doing something but not doing it terribly well and not doing it very effectively.

The other is to give the complaints commissioner the same power that other ombudsmen in this province have, namely, the human rights commissioner or the Ombudsman of Ontario, to go in and on their own initiative do investigations so that the police complaints commissioner could in fact say such and such an area seems to have a pattern that is unusual in regard to what is happening elsewhere and go in and investigate without even having anyone lay a complaint per se.

Would either or both of those proposals seem reasonable to you as an effective way of perhaps having more enforcement or more effectiveness?

Mr Galabuzi: Both would, and I think, to add to that, the possibility of a third-party complaint would also help, such that if there are those who are familiar with police work who may not necessarily be within the police force or may be afraid to come from within the police force and complain may pass this information on to someone who would be a third party.

Mr Philip: So an organization such as yours could lay a complaint on behalf of all of the people in a particular area.

Mr Galabuzi: For instance. And I have to say that the assumption here with proceeding, talking about enforcement, is that there would be a process by which we can credibly establish that the plans that are established that are being implemented are well devised. If they are not well devised and if the commission is not willing to take upon itself the responsibility of establishing that the plans are well devised, then the whole thing falls apart; we have no enforcement whatsoever.

Mr Philip: One of the things that has happened in a number of the professions has been that I think the route has been to say that we no longer feel that it is appropriate for nurses to be trained in nursing schools in hospitals, we no longer feel that it is appropriate for teachers to be excluded from the rest of society and be trained off on their own in a corner, and yet we still have this system of police training going on at a police training college, with on-the-job training as well.

Do you think that in terms of educating the police force it would be more appropriate for a lot of the training to go on in community colleges, where there are disabled people, where there are visible minorities, where there are other groups of people taking other types of courses, as a way of broadening or enriching, if you like, the kinds of experiences that they would have in their educational system, with perhaps the police college being used for post-graduate or ongoing professional development work rather than the specific training of the police?

Mr Galabuzi: We have talked about that. Maybe we did not come out to offer that as a recommendation. Part of the reason is that we wanted some people to think it through.

But clearly one of the problems we are experiencing in policing has to do with people being taken away from the community into some secluded college where they are taught certain tactics and all that, and even if there were to be people from minority groups, there is an extent to which that takes them away from the community and then they may not relate to the community two years later when they come out. So they lose out on that part of their development, which they would have had if they had remained with the community. Maybe some of that police training being done in community colleges would allow for them to have the best of both worlds.

Carol will probably speak a little more to that.

Mr Philip: We have about three minutes before we have to vote.

The Chair: I am going to recess the committee so that we can get back into the House. We have less than three minutes to get in there and set up for the vote. If you do not mind waiting about 10 minutes, we can maybe ask another one or two questions and I believe the Solicitor General has some additional comments to make.

The committee recessed at 1613.

1627

The Chair: Mr Philip, were you finished with your questions?

Mr Philip: Yes, I was, thank you.

The Chair: The Solicitor General had some comments.

Hon Mr Offer: I just wanted to make one point, because when we talk about the employment equity, it is a key element of the legislation. As you will know, there is under the legislation, first, the absolute necessity of the local boards of commissioners to devise an employment equity plan dealing with goals and timetables. There is then the responsibility of the chief to carry out those plans. Third, if the chief does not, notwithstanding those other sanctions dealing with suspension or removal, there is also the ability to appoint an administrator to carry out those aspects of the plan.

I say that because there were concerns raised that if the sanction be only to remove or to suspend, then maybe the sanction will not be used. I recognize that, and that is why we have the administrator to perform the specified aspects of the employment equity plan as devised by the local boards of commissioners of police. I just brought that forward as a point of clarification.

Ms McGregor: We do not agree with that approach. We really feel that an independent commission, one that is more apt to be honest, is certainly going to bring out any inequities that are in the legislation. I do not feel that a disabled person is going to be able to feel comfortable going to a police chief laying a charge that he is being discriminated against. If it is an independent commission, they know that their rights will be upheld.

1630

You indicated earlier that the human rights commission is an option for us. We have already got five banks, the post office and the CBC in court. It has been hung up there for the past two years. This is a very involved process. I do not think now, if we

ever see the end of this case, that we will achieve what we want, so going to the human rights commission is not a satisfactory process.

We really feel that an independent commission made up of the designated groups, so we all have our own interests vested in there, will be able to represent—you are all talking about the targets and timetables. You make no mention of people with disabilities. This is very disturbing to me. This is why we came. When I requested making this submission, they were kind of taken aback as to why a disabled group would want to make a submission on the Police Services Act. Three times I was questioned on it: "Are you sure this is really what you want to do?"

Why not? I am a citizen of this country and of Ontario, and we have disabled people who can work in this province and who can work in the police force. Of a possible 3,500 civilian positions available, at least 10% should be designated towards persons with disabilities. You do not have a reasonable accommodation guideline policy. I have inquired. They say it is very difficult to do. I realize that. It is very intense.

We have certainly been negotiating with the other ministries on accommodation guidelines on a consultative process because we have such a vast membership. But without reasonable accommodation, we cannot have an employment equity plan in this province. Your deaf are not even being served in their own police forces now. You are certainly not going to be able to accommodate any more disabled people than you have at the present time.

Mr Galabuzi: On the issue of enforcement, the member talked about one of our concerns, which is the either/or concern: either nothing happens or the police chief is fired or the board is retired or whatever it might be, or we appoint an administrator.

My understanding was that the administrator would be appointed in the case that the board was set aside, and not in an in-between situation, which is the realistic situation, the one we are talking about, between nothing being done and the drastic changes of firing the police chief or retiring the board. Am I wrong to assume that the administrator would take over after that?

Hon Mr Offer: If your point is that the administrator can only be hired if the board is disbanded, no. The administrator can be appointed for the purposes of carrying out the goals of the employment equity plan, so it does meet the concern you have brought forward that there has to be a range of options available and that is one of the options.

Mr Galabuzi: In what circumstance would the administrator be appointed?

Hon Mr Offer: Under subsection 23(2): "If the commission is of the opinion that a board or municipal chief of police has failed to comply with the requirements of this act and the regulations respecting employment equity plans, the commission may take any of the following measures." One would be to suspend the chief or members of the board; two, to remove the chief or members of the board; three, to appoint an administrator to carry out the employment equity plan.

Mr Galabuzi: I see that. I have it open here and I read it. What I am saying is, in what specific circumstance would they, for instance, rather than suspend the chief, appoint an administrator? The problem I am having with this is a problem of realism in process here. I can understand a police force having to deal with some of its resources being withdrawn or withheld, for failure to deal with employment equity.

The other thing you are talking about, the issue of appointing an administrator, is something that will raise some rancour in the force and that would make it quite difficult for it to operate. If you are interested in a process which will implement employment equity, I think it would be a lot easier to deal with the issue of resources.

Hon Mr Offer: I guess my point is that this is a matter which is going to be heard before the commission. The commission has to have a range of alternatives. I think you have said you agree with that range and in fact your concern was that the range may not be wide enough. In fact, with an administrator, I believe it does meet the concern you have brought forward.

As to the decision of the commission as to which of the alternatives it will take, that will depend on the circumstances of the particular matter. Certainly, I cannot hypothesize which alternative will be taken. All I do say is what this bill is calling for is mandatory employment equity, mandatory for plans to be created and implemented and, in the event that they are not carried out, that there be a range of sanctions, one of which is the appointment of an administrator. That is what we believe is absolutely necessary for employment equity plans to be carried out.

Mr Galabuzi: I have no problem with all those being there, but I am saying it is critical that you add the issue of levying fines or withholding resources, because I think it would be much more effective than all the others. If you want to have the others too, fine, but if you do not have that, I have a problem with it.

The other thing that I think would be helpful when we leave here is knowing that there would be some revision or some amendment to the view that will specify what types of groups you are talking about, so that persons with disabilities can be comfortable that you are also talking about them and not just racial minorities and women.

Last, I think the issue of targets and timetables should also be very specific. The issue of a formula is very important and you should really take that into consideration, if not for anything else, to provide some sort of direction. If you look at some of the police forces that have employment equity programs today, their targets are abysmally low; not only that, they do not even meet those abysmally low targets, so if not for anything else, just to provide direction.

The Chair: Ms McGregor and Mr Galabuzi, I want to thank you on behalf of the members of the committee for your brief, for answering our questions and making the recommendations. I am sure they will be useful to the members of the committee and the Legislature when they proceed with this legislation.

BLACK BUSINESS AND PROFESSIONAL ASSOCIATION

The Chair: Our next presenter is from the Black Business and Professional Association, Carlton Masters. As you are probably aware, we allot 30 minutes per presenter, which should include time for questions and answers. Please proceed.

Mr Masters: It seems like a lot of time. As indicated, my name is Carl Masters. I am the president of the Black Business and Professional Association.

Before we react to the specifics of Bill 107, we would like to express a basic concern. The board of commissioners of the Metropolitan Toronto force acts as a de facto board of directors

of the force. The commission is housed at police headquarters, serviced by the police bureaucracy and acts as an advocate and defender of the force. In perception and practice, the commission is behind what we call the "blue wall" of police solidarity against criticism and in support of the status quo.

We believe the board of commissioners should be a bridge between the police and the people. It should be housed independently and have an independent staff. There should be an arm's-length relationship with the police. Its mandate should be to ensure the best policing for the society, and not the best advocacy for the police against criticism from the society. As far as we are aware, other boards of commissioners across the province are similarly constituted and oriented, so our comments apply to them as well.

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In specifics, in general terms we are disappointed with Bill 107. It draws on the recommendations of the Lewis task force, but stops short in many key areas. For example:

1. It rejects the creation of an independent civilian Ontario Race Relations and Policing Review Board to oversee the implementation of the task force's recommendations and provide advice, information, advocacy, research and monitoring for police employment equity programs.

Instead it creates a monitoring agency within the Ministry of the Solicitor General. To create such an in-house agency is a clear conflict of interest. The ministry is responsible for the police and the advocate for the police. How can it at the same time be responsible for critically monitoring its own performance?

2. We believe Bill 107 gives the independent complaints commissioner too little to do. We feel the scope and powers of the commissioner should be broadened to include: (a) all investigations of civilian complaints against the police; (b) the power to initiate complaints about incidents as well as procedures and practices; and (c) overseeing the special investigations unit that handles criminal allegations against the police.

3. We believe the composition of the special investigations unit should be much more clearly defined. To ensure that it is free of bias and seen to be free of bias, none of the investigators should be serving officers. If they are former police officers, they should not be available to investigate any other police force on which they have served. In any event, former police officers should always be a minority of the investigators.

4. Bill 107 sets out general principles about employment equity, including the requirement that it be mandatory for all police forces, but it sets no specific goals and timetables, and there is no mention of the equity principle being applied to police service boards and commissions. Although there was talk of a central recruiting agency, this is not addressed in the bill.

We believe the provisions in the bill are totally inadequate. They are a prescription for tokenism, avoidance and delay. Too much is left to the discretion and initiative of the individual forces, few of whom have vigorously applied employment equity principles in the past.

5. Bill 107 calls for mandatory police training and retraining in race relations. However, there are several unanswered questions about how this is to be achieved. A review of all race relations programs and the development of revised programs was called for late last year, but there is no independent monitoring of the review or what has emerged or is emerging from it. Existing programs, which are woefully inadequate or ineffectual, are continuing, and there is no indication that this

review of training is being applied to training officers already in the system and not just recruits.

In addition, the deficiencies of the existing police college training in the whole range of policing skills is not addressed, so recruits will continue to be inadequately trained in general, including in the appropriate use of firearms as well as race relations. Marginally trained officers with full police authority in dealing with the public are prescriptions for trouble.

6. We want to see clear limits on the use of firearms by police. The "fleeing felon" principle gives the policeman too much power. We support the task force's recommendation of restricting deadly force to situations in which the fleeing felon or suspect poses a threat of death or serious injury to the police officers or others.

We also want to see incorporation in the bill of the requirement that officers file reports every time they draw a gun. It is arguable that had those restrictions been in place, many people maimed or killed may have been whole and alive today.

It is noteworthy that special units trained in the use of firearms to counter crimes involving guns fire their own guns less often than regular police officers. This points to the need for more training in the appropriate use of firearms, especially as there is an increase in gun crime.

In conclusion, public confidence in the police has been eroded among black people and other minority groups. The defensiveness of the police and their governing, regulating and representative agencies has heightened the anxiety in the black and other minority communities that they are not being fairly treated and fully served by the police.

To reassure this growing part of the population, definite and unequivocal steps have to be taken. Bill 107 is a significant step, but it does not fare enough in some critical areas.

Mr Philip: I know you have had experience with the Metro police complaints legislation. Do you feel that the major faults with the Metro police complaints legislation are perpetuated in this bill?

Mr Masters: Yes. One of the concerns we have with the existing infrastructure is with the complaints commission. For example, the process takes too long before it actually gets to any particular point.

I just recently had an example of a case where a 15-year-old girl was brutally handled by a police officer. To this date, for her to get through that process, she has to go first and lodge a complaint with the police officers and then she has to also lodge it with the complaints commission.

Not many people are aware of the two distinct processes. When they get that, it becomes a very long process. I think it takes approximately six months before any sort of evidence that the work has been notified to the individual. In fact, this young lady who contacted me was very, very upset that it appears that nothing has been done.

What I am trying to say here is that we need to have some sort of investigatory body. That is very clear. I know one will argue that it can be seen to be managed correctly in the Solicitor General's office, but I believe that perception is reality. There are a lot of people out there who believe that they will not be served properly if it goes within the Solicitor General's office, and I think it is important that we dispel perceptions.

Mr Philip: When the original Metro police complaints bill was introduced, both the Liberals and the New Democrats argued that it would not be used sufficiently by members of the visible minority community and by people who come from totalitarian sorts of countries such as Chile, Argentina and

South Africa. In this bill, which the present government has introduced, we have a perpetuation of the same problem, that the initial investigation is done by the police themselves. Has it been your experience that large numbers of people who are part of your community do not file complaints, even though there may be legitimate complaints, because the initial complaints are investigated by the police themselves?

Mr Masters: Yes. I am glad you point that out because it is indeed a concern within the black community particularly. I do not know if all of you are aware that there is a growing concern among the black community and the police force. I think it is important to recognize that not many people see the police as a friend.

In order to address what I call this very, very concerning issue of a number of crimes committed against blacks that have gone unreported because the people do not want to deal with the police force, if there is an independent body that they can be assured has nothing to do with the police force, I think you will find more people coming forward and being co-operative.

Mr Philip: That is the same kind of comment I have received from people who are immigrants from Argentina who lived under the junta, which luckily has been overthrown, and from Chile and from other countries, some in the eastern bloc. No matter how they may reasonably be able to say, "Well, things are different here," the traditional stimulus-response of the fear of the police prevents them from using the present system that is in Toronto and that will be exported, if you want, across the province.

Mr Masters: I think if this particular bill is structured in a way to provide that independence, to me Ontario will see a leading step in trying to deal with this issue of the perception of the community and the police, because I believe that a police force is a reality. It is going to be here for a long time, as the community is going to be here for a long time. I believe, as responsible men and women who are sitting around this table and across this province, that we need to try new ways to minimize that alarming concern between the two communities.

There is no doubt in my mind that the police force is trying to deal with this perception, but it is an uphill battle. By the same token, the community is also trying to deal with it. I believe that unless we come up with this independent review that is taken away from the Solicitor General's office, that is the only way you are going to get, I think, the independent considerations.

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Mr Philip: One area where I believe that you, other representatives of visible minorities, community groups, the police and the police association seem to be in agreement is that a great number of the major decisions are left under section 133, which is the regulatory section. Would it seem reasonable to you that before any major decisions are made under section 133, there should be some kind of public hearings or a re-evaluation, if you want, of all of those matters that are done by the Solicitor General behind closed doors under a regulatory process, since major decisions affecting all of us seem to be covered by regulation rather than spelled out in this bill?

Mr Masters: No, I would not personally advocate that. I think that we are dealing with a very complex issue here and what we want to do out of this bill is to create the climate where the two communities feel that there is a trust and linkage between both.

Mr Philip: Would it be useful to have a review of this bill in three years' time, or two years' time, to see how it is working?

Mr Masters: I think the community itself will tell if it is not working. I would not particularly want to set a timetable on it. What I would suggest is that we take the recommendations from the various people into consideration. As every recommendation I have seen has called for the independent review committee, I think the Solicitor General should really think about this one in terms of the perception of the linkage between the independent committee and the Solicitor General's office. It is not a question of credibility. It is also a question of perception.

The Chair: I have one question. I do not usually ask questions, but in this particular instance I want to refer to one statement in your conclusion,

"The defensiveness of the police and their governing, regulating and representative agencies has heightened the anxiety in the black and other minority communities that they are not being fairly treated and fully served by the police."

To what extent does this bill relieve that anxiety, and to the extent that it does not relieve that anxiety, how do you think that anxiety will express itself in the future?

Mr Masters: I do not want to look in a crystal ball, but what I am saying here is that, as I pointed out before, we are going to have to come up with innovative ways of dealing with this issue. An independent review body is one step. It is not the only step.

I believe it is important, for example, in the issue of employment equity, that although a number of people have called for goals and a timetable and I have said that we need to have some sort of a quota system, that in itself is not going to relieve the erosion, because if you have systemic discrimination in an institution and you do not deal with that, that perception will continue.

My argument is that one of the positive steps that this commission can take is to create this body, make it arm's length and staff it with qualified men and women from various sectors of the community, particularly minimizing the number of police officers involved on that commission, because I think you need to have people who are skilled. I think if you set that single body up and it is seen as credible, then I think many of the erosions we talk about here—people will see the performance.

The Chair: Mr Masters, I want to thank you, on behalf of the committee members, for your brief and for your presence here today. I am sure it will be helpful to the committee.

ADVISORY COMMITTEE ON RACIAL AND ETHNOCULTURAL RELATIONS TO THE KINGSTON POLICE COMMISSION

Mr Batchelor: First of all, Mr Chairman, if you would allow me to point out, there are some obvious typographical mistakes in the presentation in the original paper sent to you and I have provided the clerk with the corrected versions. It is a little bit annoying, but I apologize for that.

Before I get started, I would also like to express the thanks of my committee to the Ministry of Citizenship, the Kingston Police Force chief and the Kingston Police Commission for assistance in just about everything we do, co-operation, etc.

My presentation of the brief will be slightly different from the conventional ones here because we come from the so-called sticks, eastern Ontario, and our perspective is completely dif-

ferent from that of the people in the Toronto-Golden Horseshoe area.

Recently, my son, who has just finished medicine at Queen's University, has transferred to Toronto to do his internship. I also have a daughter in Toronto doing nursing. Because of recent explosions between the police and other communities in Toronto, I had to warn my children to be very careful how they drive in Toronto—in other words, when you approach a stop sign, make damn sure you go through it carefully, and they should always do this—but I should not be placed in a position to warn them about what may happen if they break the laws that other people break and get away with because of recent developments and recent incidents in Toronto.

I would also mention that I was trained in Britain on two occasions. On the first occasion it was in the 1950s, to do my undergraduate training there, and when I left Britain on that occasion, the people of colour had just started to come into Britain. When I left Britain, I had the perception that the London bobby was just about the best institution in the world. However, when I went back in the 1960s to do my post-graduate work, a lot of people of colour, immigrants, had come in and the whole issue, the whole situation changed to the point that when I left Britain I thought that I wanted to avoid the police as much as possible because I saw injustice at first hand to immigrants of colour in Britain. I think the British police really blew a fantastic opportunity to bridge the gap.

I want to congratulate Ontario and Canada for at least trying to do something before the horse has completely gone through the gate. I think we have started and I am very pleased to see that. I hope the efforts will produce good results.

Maybe I should give you a little history of my committee. This committee stemmed from another committee that was formed some years ago in the Kingston area, and it was called the Committee for Racial Harmony. A few of us got together and saw the potential for discord among the different groups in a place like Kingston. Also we saw that because our numbers were very small, we had no strong lobbying power, as did other groups, from the point of view of the number of votes we could put in for any particular member of Parliament. So we thought the best thing to do was to work with the so-called mainstream people to establish a committee to do some proactive work.

This has been quite successful and has been funded by the federal government, I think, quite reasonably. One of the workshops we put on a couple of years ago, before the main upheavals in Toronto between the police and the minority community, was a workshop called *The Police and The People*. This was funded by the federal government. We had some 90-odd people in the room for a day and we had workshops showing the mistakes that the police can make and that people can make just because of poor perception of each other and in many cases wrong perception of each other. As a result of that workshop—the chief of police attended—we were persistent enough, and especially aided by the recent incident in Toronto we were successful, to have the police commission look at our forming a committee that would sort of help to defuse situations.

1700

The Kingston area, as you know, is populated mainly by large ethnic groups, but people of colour who comprise many ethnic groups are very few. As a result, people feel that no problem exists. The perception is: "Everything is going nicely. Why do we have to worry about this? What happens in Toronto can't happen in Kingston." But I put it to you that if there is one shooting in Kingston of a black person or a person of colour, I

think the damage done would be even more than in Toronto because of the demographics of the region. The confidence would be completely blown.

We are not there to defend criminals who have committed criminal acts. We are there to make sure everybody is equally treated. Fortunately, the response from the chief and the police commission has been such that we can sit down once a month and talk; we have established dialogue. The chief will call my committee—I am the chairperson of the committee—or we will call him. When we see a situation developing, we talk about it and make suggestions. He will call us. So I think to some extent we are ahead of many communities in the province in that we realized our vulnerability in view of our numbers and decided to do something quite early on about this.

The comments we prepared have been circulated. I will not read it. I will go through and highlight the main points.

Perception: I mentioned a while ago that in eastern Ontario the average person does not view relations with police as a serious problem unless he or she has to confront a particular situation and, all of a sudden, people start calling to ask what they can do about it. The objective therefore is to avoid confrontation, and we are trying to do that.

On the whole, we want to praise to some extent the contents of the document. It is not perfect, but as I mentioned a while ago, it is a fantastic start. What we are trying to do is present objective comments that will plug certain loopholes that we see as being very adverse and we worry about, mainly because in eastern Ontario we can be easily forgotten. For me to come to make a presentation here, it meant my coming on a train at 1:30, which was late, and then having to go back by bus tonight for another appointment tomorrow. We are different from the Toronto area and we beg you not to think of eastern Ontario problems as similar to those in the main region here.

We especially applaud the employment equity provisions, though they are not perfect, as you will see when I come later on to comment about that. The public complaints provisions is a big move, though it is not perfect. The special investigations unit is also an important move, though the proposal is not perfect.

We see some lack of attention to structural problems, as I will present when I go through, an unduly heavy emphasis towards provincial government control, appointments to the different groups and so on. Examples are the Ontario Civilian Commission on Police Services and municipal police services boards and other aspects, as outlined below. I will just pick out those aspects that I think worry us quite significantly.

The first one, part III, is the municipal police services boards. The appointment process is almost totally controlled by the provincial government. We worry about that, again because we are very small people in a small area and can be easily forgotten when these appointments are made. Local levels of government should be in a position to have a greater say in the makeup of the board. We think boards should reflect the racial-ethnocultural diversity of a particular community or the province. An explicit statement should be incorporated in a document to that effect—a direction.

The board must be capable of taking a stance that is independent of the police department. From that point of view, I think the lack of resources may be a serious problem. I know in Kingston, for instance, the police commission meets in the same building where the police chief and the police station are located. We sometimes have to have meetings in the same building. That is a problem. We must present a completely impartial front to the populace to make sure that they can call any

member of our committee to make a complaint and we can take it from there without them feeling that we are in the same bed with the police. So we have a serious lack of resources that will have to be addressed.

Part IV, the police officers and other police staff: The first one is a structural issue. I have not seen this made by any other group before. We are aware that the police is a paramilitary force and therefore it is very difficult to introduce innovation into a system like that. We are suggesting that the feasibility of having a term appointment for a chief of police be seriously considered.

There is no reason why a chief of police should be appointed for life, first of all. We want renewal, innovation and new ideas in a system. Why can a president be appointed for five or six years, a prime minister for X years, or a principal of a university for X years, step down and do something quite constructive, and yet we do not even think of asking a police chief to accept a term appointment?

We strongly suggest that this is something that has to be looked at to ensure that other people can have a kick at the can, have a say and introduce their ideas at the appropriate level. If it even involves setting up a committee or a commission to look at how to reorganize the police forces to ensure that when the chief steps down, he or she is not embarrassed and is not compromised in terms of important confidential information he or she may have, this has to be looked at. A life appointment is inexcusable. Even generals are rotated in a force.

I need not say that one of the reasons we have looked at that very carefully is that it would also provide an opportunity for different people to bring their views in, including the so-called minority groups, women and other people who want to have access to the system.

Section 42 should incorporate an explicit statement that police officers are expected to carry out their duties in a manner respectful of Canada's multicultural and multiracial nature, even if repetition is involved. We think a strong statement to that effect should be made in section 42.

Our main concern in part IV is the absence of a statement regarding disciplinary procedures with respect to racial incidents, particularly racial remarks that have caused much damage in the province and across the country. We think that if a racial remark is made and it can be substantiated, it should become a serious case that should be investigated by a disciplinary committee.

Employment equity: This is one of the strongest points of the document. We are extremely pleased to see the provisions suggested in the bill as far as that is concerned. However, nothing is perfect. The bill or any subsequent planning documents should give special deadlines. We want to see time lines for development and for submission of employment equity plans. We do not think it should be left to the chief of police and the police commissions to ad infinitum start working with employment equity plans.

I work at a university and I know the trauma involved in developing a plan. Even the information, the basis on which to base a plan, is very difficult to get.

We think regular reports should be required to be filed by the police chiefs and this should lead up to the final report in a reasonable time. We think a deadline should be specified by which time all employment equity plans should be filed.

We want to give a word of caution here. I think it may be assumed that we can legislate an employment equity plan and it will go through. That is not the case. Unless the provincial government puts some money where its mouth is in this respect,

we will never have a reasonable employment equity plan across the province of Ontario because of lack of resources in a place like Kingston, which is very strapped already for finances. So I think some provision has to be made to help small communities like Kingston get a consultant or what have you to get an employment equity plan on the road.

First nations constables: We have a concern that the controlling power of police commissions over the first nations constables is a bit too strong. It is undesirable. We think they should be accountable to first nations government structures and steps should be made to do this if they are not in place already.

Part VI, public complaints: We find the provision quite positive. We are pleased to see that witnesses may launch complaints, because in a place like Kingston where there are very few people of colour, people tend to go complain somewhere else rather than to the source and take the police to task if they have committed what is viewed as a misdemeanour. So we want to reinforce the idea that a witness can launch a complaint procedure.

1710

Who will the public complaints commissioner be? It is not clear to us. Certainly, he or she should not be an on-duty, in-duty, seconded or retired police officer. We think the person involved in this position should be completely divorced from the police and this person should have a background record in race relations. We think that is essential because, let's face it, race is one of the biggest problems facing the communities and the police right now.

Concern: The public complaints commissioner, I see, is to report to the Attorney General. We think that is undesirable. We are proposing a complete and arm's length relationship between the commissioner and any of the government institutions.

Subsection 89(7) states that the police chief has the right not to act on complaints. We think this is unacceptable. We think the police chief should always be required to file a report on every complaint, especially complaints involving things like racial remarks and racism. Even though the police personally involved may have resigned, we do not think that should be the reason for the issue not to be followed up.

Subsection 95(13) should allow for filing of minority reports by the board members. I know there is a strong tendency in government inquiries to have a unanimous report, but we think, especially in matters that have been discussed, it is quite likely that one person on an investigation unit may have a very strong point of view, and he or she should be allowed to express it in writing.

Part VI, subsection 104(1): A police officer can resign before the hearing. I touched on that already. That should not be allowed. That can be allowed, but certainly there should be a provision included for launching the inquiry to look at systemic issues emerging from the case. In fact, it is quite likely a case like that would involve a systemic issue like racism or certain stereotypes. We think that can bring to light some of the issues that we have been addressing.

Part VII, special investigations: We have a major interest in this, being a small community in eastern Ontario. We wonder how these units will be able to serve the needs of individuals outside the Toronto area. I refer to that in my introductory remarks. Are there going to be regional structures, with offices and staff in a place like eastern Ontario, for instance, so that we do not feel we have to come to Toronto to get some action on any complaints that we have? Are we going to have local of-

ficers staffing offices in sections like Kingston? This would ensure that locals like eastern Ontario receive thorough, expeditious attention when we have difficulties.

We have a concern regarding credibility. The special investigations unit should not be staffed by in-duty, seconded or retired police officers. They could be trained investigators from, for instance, the human rights commission or the Ombudsman's office. There is no reason to feel that only a police officer can carry out a special investigation. We think there are people who are trained to do that and are doing that now—or should be trained to do that, in the long-term, to man this office.

I have mentioned the concern about credibility. This again will lie in the provision for this special investigations unit to report to the Solicitor General, or to be based in the Solicitor General's office. We think that is highly undesirable, and I heard in the last presentation that very point was made that there should be an arm's length relationship between government and this unit.

We think the mandate should be broadened so that the special investigations unit can review cases which do not involve death or serious injury. We note that those are the main cases in which this unit would operate. We think that unit should also be called into play when there are serious systemic problems, as I referred to a while ago. Many other incidents have caused serious discord besides death and injury especially in police and visible minority relations. Such cases require special attention, which a unit like this should be empowered to address.

In concluding, I thank you for the opportunity of having my committee being able to send someone to address you. Our concerns are quite serious seen from our point of view, and we hope you will give them attention when the final version of the act appears.

The Chair: Thank you, Mr Batchelor. Mr Cooke, you have indicated you want to ask some questions.

Mr D. R. Cooke: I apologize for missing the beginning of your presentation, because I think what you have to say is very interesting and very valuable. I do not think we have had the suggestion before of having a fixed term for a police chief.

Mr Batchelor: No, I have not heard it before, but it is in the brief.

Mr D. R. Cooke: It is in your brief, yes. I do not know that anybody else has mentioned it.

Mr Batchelor: I do not think anybody else has.

Mr D. R. Cooke: It makes a considerable amount of sense to me, coming from a community that for a number of years had to pay two chiefs of police. Do you know anywhere this is being done at the moment?

Mr Batchelor: No, I do not. I work in a university. I am a professor at a university and I know we have term appointments, chairpersons of departments, principals. The people revert, and we see no problem. Now, I agree the counter to that is that a paramilitary force is a completely different ball of wax, but in my opinion, if we want to do something, we have to look at radical solutions. We cannot put the blinds on and assume that is the only way to do things. I mentioned that the president is assassinated and the country goes on just the same. If the police chief drops dead, I should hope the force can continue just the same. There should be structures in place so that it can be a rotation. Get young blood and new ideas in the system on a continuing basis.

Mr D. R. Cooke: Your advisory committee, can you tell me how it started?

Mr Batchelor: It started from the workshop that we presented in 1988 on The Police and The People. I was the chairperson of the Kingston Committee for Racial Harmony, which put on that workshop. It was very well attended by police from all over the province, and also civilians.

We thought we would rope the chief into giving a presentation. We were looking at employment equity, fair treatment of all and so on. He came in with some reservations, I think, and he left feeling that maybe the force should start looking at this. I kept nudging him and the mayor and the chairperson of the police commission, and in the end, after the shootings in Toronto occurred, I saw movement. And we were there, ready, because we were meeting as a small committee already, to establish this dialogue.

Mr D. R. Cooke: How often do you meet?

Mr Batchelor: We meet, on the average, once a month. In fact, we had a meeting just last week.

Mr D. R. Cooke: To what extent do you feel they listen to you?

Mr Batchelor: It is very difficult to say. To go in to police commission, for instance, and suggest it should endorse this committee's formation, I make a presentation and we had no difficulty, but then there was some problem in Toronto just before that. Unless there is some explosion in the area, it is very difficult to note the extent to which they listen to us. There are good feelings, but when one side challenges the other, that is when the true test will come. We have dealt with one or two cases in which we advised the chief how to go about things from our point of view. He observed, he listened to us and did it just that way, and the whole thing just phased out.

Mr D. R. Cooke: Do you have youth involvement on your committee?

Mr Batchelor: No, we do not, but we have all the groups involved. We are going to reach out to youth because we are worried about recruitment. For instance, I have a son who has done medicine, one who has done nursing, another one who has done occupational therapy. None of these people would ever dream of going into the police forces, and that is a disgrace.

Mr D. R. Cooke: Do you monitor any friction in the high schools?

Mr Batchelor: We have had some trouble, but not friction from the point of view of the police being involved. It is mainly racial remarks, and I do work with the board of education, so I know what is going on. We see a lack of people of colour in the power structure in the schools. Their own mothers are not there in the numbers we would like to see them and we are addressing that in the long-term. But I do not see any serious problems except for racism. I do not see any justice problems as such in the schools.

Mr D. R. Cooke: We have in our community some concern expressed recently about gangs with a racial basis to them at the high school age level. We are exploring how to deal with that and to what extent the police perhaps could be helpful to us and we to them. Is that happening in Kingston?

Mr Batchelor: I have heard the odd rumour. Maybe the odd person may be involved in some extortion, but I do not see any sort of structure set up for that. It is a different community

in that most of the people of colour and the newcomers are reasonably well educated. I am not saying crime deals only with non-educated people, but the families are pretty compact.

1720

There was one case about a black child. He went to Dominica and was involved in some police problem down there. That caused a little bit of a fever in the community, but there are no outright gangs operating as such that are causing any undue worry that cannot be dealt with in the school system itself.

Mr Philip: I thank you for your brief and I agree with most of it, so let me ask you about a section that I have some trouble with. That is your recommendation that subsection 95(13), where only majority reports of boards of inquiry will be allowed, not go ahead and, instead, that you allow the possibility of minority reports being filed. Would that not allow for individuals to rationalize that in fact there was not a problem because the problem was only seen by three to two, or whatever the board consisted of? Do consensus reports not force boards to come to grips with what the problem is and define it?

Mr Batchelor: I can see the point, and we did think of that, but we hope that the people appointed to boards like these will be rational and reasonable enough to realize that minority reports will not help the situation and they will sit down and do their homework and fight, if necessary, over the issues, discuss the issues strongly, to reach consensus. But in the odd case, especially cases involving questions of racism or race relations, we have seen examples when a member of the board is sort of left out in the distance simply because he or she speaks out. His or her perspective is completely different from the so-called mainstream members of the board. I think if that person has a strong point of view, it may well be better to have the committee realize that a minority report can be filed and it has to reach consensus and battle out the issue before coming out with a semifinal report, in my opinion.

Mr Philip: I guess what you are saying too then is that perhaps someone's feeling so cut off from the rest of the board that he would feel that in conscience his only way of expressing discontent, resigning from the board, would be more disruptive than his filing a minority report.

Mr Batchelor: Exactly.

Mr Philip: May I ask you just one other question, and that is a question concerning an area that I find objectionable in the act and I find it equally objectionable when it comes to any public servant. As you probably know, there is a court challenge on this. That is section 49 in the old act, section 45a in this revised act, which says that a police officer shall not engage in political activity, except as regulations permit.

I am wondering if you feel, from your experience in Kingston, if that is necessary, if it is not reasonable in an enlightened, democratic society to give people as much political freedom as possible, with the understanding that if they abuse their office for that political purpose, then they are obviously in a professional conflict, and you deal with the professional conflict rather than restrict them before any exhibit of that professional conflict is evident.

Mr Batchelor: We did not question that. We took it as a given, so we did not question that provision. We did not discuss it explicitly, but we went through the bill thoroughly. We did not question that, for the main reason that recently in

Kingston—you may know of an issue at the penitentiary where some insulting buttons were brought in from Alberta and worn by a guard—you know, ridiculing minority groups, in the Kingston penitentiary, of all places. That caused some upheaval in Kingston recently. I think political statements like those, whether they are objective or, in this case, really dehumanizing, will only help to remove the sort of confidence that the public should have in the police when the police take a stand.

Mr Philip: The problem I have with it is that it is not defined. I think if you can stop a police officer from wearing what would be a racist statement, a badge that has an antirurban slogan on it or an anti-French symbol on it, perhaps in the case of eastern Ontario, or who engages in some kind of political behaviour that is of embarrassment to the uniform—joining the Ku Klux Klan and putting a cross on somebody's lawn would be the most extreme example, or the Western Guard or something like that. It just strikes me that if a policeman wishes to run for municipal council or to serve as a trustee or to run for political office or to support anyone of the candidates, he should be able to do so openly, as long as he is not using the uniform while he does so.

Mr Batchelor: I do not think we meet on that one. I really think that should not be allowed. Certainly in a municipal council in a place like Kingston, a small place, that has no end of difficulties.

Mr Philip: Do you feel the same way about all public servants?

Mr Batchelor: It is slightly different, I think, with a public servant, because a public servant does not have the right to go out and arrest and, in some cases, beat up people. I am not saying the police have the right to do this, but I can see abuse of power when a person is allowed to display his or her feelings or ideas publicly from a political point of view.

I see in a small place like Kingston, if they are meeting and so on, this could cause some difficulty. It may well be the police person could give a blind eye to a development when he or she should not. You say there should be structures that will make sure that if this is done, the person will be punished, but at the same time, it is the credibility of the force that may be brought into play. I would not like to strike the comparison between a public servant and the police force in this case.

Mr Philip: I guess I just do not see any difference between a police officer making a political statement and a priest or minister making that political statement, or the principal of one of the high schools in Kingston.

Mr Batchelor: But in some communities that police officer may be one of maybe five or six police officers.

The Vice-Chair: Thank you very much. We appreciate your being here and thank you for your attendance.

HARISH JAIN

The Vice-Chair: Professor Jain, how are you today? While you are getting yourself comfortable, I just might indicate to you that you have a half hour of time to use as you see fit. Generally, those appearing before the committee have made their presentation and reserved whatever time left for questions and discussion with members of the committee. If you could identify yourself for purposes of the record as you begin and proceed with your presentation at your convenience.

Dr Jain: My name is Harish Jain. I teach at McMaster University in the school of business. I am a professor of human resources and labour relations. I have passed out a one-page résumé which indicates my involvement in the past and presently with research, consulting, etc, with the police, not only in Ontario but in Canada. I thought that might be of some assistance to the committee.

I learned yesterday that I would be on today, so if I make some slips, if I have not kept myself informed of all the amendments that the Solicitor General has proposed, perhaps you will correct me on that.

1730

My main submission is on the employment equity aspect of Bill 107. I personally feel that the employment equity provision is seriously flawed in the bill. Having said that, let me go back and say that I really do appreciate the tremendous improvements this bill has made in incorporating the task force recommendations. I do, however, find that the employment equity provisions are fairly weak.

We know that the federal Employment Equity Act, which applies to 374 federally regulated employers in this country, also requires these employers to have a mandatory employment equity plan with goals and timetables. And yet, when the Canadian Human Rights Commission approached some of these employers, they did not even know that the act required them to have an employment equity plan. They thought that all it required was simply reporting or the distribution of the four designated minorities, but not employment equity plans.

The federal act has implications for the Police Services Act. That is why I mention it. It lacks systematic monitoring mechanisms or effective sanctions for non-compliance. Those are some of the reasons. There is no penalty provided if an employer fails to have an employment equity plan—this is only a three-page act that the Parliament passed—even though there is a clear provision that the employer must have it.

I think that Bill 107 should be amended to create an independent agency to review employment equity plans, as mentioned in section 48, that are required of each police force in the province, rather than submit such plans to the Solicitor General's department for approval. Such an agency, whatever its name, must make certain that the goals and timetables submitted by individual police forces are measurable, significant and attainable. In the question period, I can explain what "measurable," "significant" and "attainable" mean.

The employment equity plans should also be available for public scrutiny in advance so that members of the visible minorities in other communities can provide their response prior to the approval and adoption of such plans. This agency should also be required to monitor employment equity plans and programs of each of the police forces and issue reports on a regular basis, at least annually. In addition, the agency should be able to initiate orders on police employment practices and policies to remove systemic discrimination, which is part of the provision in section 48. Penalties for failure to comply with a meaningful employment equity plan should be specified in the legislation. In my view, that is not there except that the Solicitor General can ask that they be revised.

One of the significant aspects that is missing—at least in the bill that I saw, unless it is contained in the amendments—is the whole issue of training. I realize training is also part of employment equity, but I feel that training should be an independent aspect of this bill. Cross-cultural race relations training to sensitize all police officers, not just the fresh recruits, must

be mandatory. Such training can sensitize fellow police officers to the needs, aspirations and, more important, on-the-job behaviours of visible minority police officers and can help supervisors and others to deal effectively with such minority officers.

These are some of the issues that relate to employment equity and training.

Now I would like to go into the complaints system that the bill envisages to extend beyond Toronto to the entire province. In my view, all investigations, from beginning to end, should be conducted by civilians, rather than a majority of them being conducted by police officers. The bill must be amended to allay the fears of visible minorities in coming forward to lay these complaints against police in the first place and to have confidence on the part of these communities that the complaints will be dealt with impartially, without a conflict of interest.

In addition to investigating complaints, the complaints commissioner should also be able to launch audits of police practices and policies to address allegations of harassment by visible minorities and others. In my view, it is not enough to simply act on the basis of complaints, but also, if you are going to eliminate systemic discrimination, the commissioner should have these powers of audit.

Finally, the independent complaints commissioner should also handle criminal investigations of police, rather than the office of the Solicitor General. Again, this will help in avoiding charges of conflict of interest; that is, being influenced by the Solicitor General's mandate to protect the interests of police forces for whom the Solicitor General is responsible and accountable.

In addition to these, there are just two very minor but very significant points that I would like to make. I think that visible minorities should be specified as members of the boards. Nowhere in the bill is there provision that the composition that has to be going from the governing council of these boards that are appointed by the government should also have visible minorities. The whole emphasis of the bill is on racial minorities, and if you want the boards to reflect the communities, then I think you should put in the bill that a proportion of the members appointed by the government also be visible minorities.

I think there should also be a provision added that visible minority advisory committees be formed to advise each and every board. Ottawa has it. Hamilton has just appointed, but to the chief of police, not to the board. I would like to see these committees appointed from community members who advise the boards.

There is nothing in this bill that talks about lateral transfers. In other words, what if this person has 20 years of experience in the Caribbean, India or somewhere else? Should that person start as a constable, even though he or she may have been the chief of police? There is nothing in this bill.

If this bill goes through as it is, I fear that visible minorities will not have significant positions in the police forces for anywhere from 20 to 30 years. I think the bill will in fact create a lot of problems in terms of racial disharmony and racial discord.

I organized a conference at McMaster early in March at which the RCMP commissioner said that, if nothing is done, he fears that, as in Birmingham, there might in fact be conflict, and I fear that might happen if this bill does not take care of some of these issues that I have just addressed.

I think I will quit there and let members ask questions.

1740

Mr D. R. Cooke: I was present at part of your conference at McMaster and that is one reason I lobbied to make sure you were included in the presentations. I was quite impressed with what went on there.

I want to be a little bit of a devil's advocate here for a minute, because we are hearing a lot of presentations suggesting that an independent agency of citizens, and I suppose the presumption is that a lot of representation on those agencies will be from visible minorities, is somehow going to resolve some of the tension that exists.

We have a situation in Metro Toronto right now where a police officer has been charged with attempted murder, and he is charged by the Ontario Provincial Police, which is the senior police force in the province. The president of the police association has said that the OPP has been influenced by political considerations. In other words, the allegation is that the charges are trumped up, which I think is probably the most serious charge you can make against a police force.

The Chair: I am going to have to interrupt on that point. As you are aware, there is a—

Mr D. R. Cooke: I understand your ruling, and that is all I want to say. I do not think I said anything that contradicts the ruling. If I did, would you bring it to my attention?

The Chair: When you use language like, "People are making accusations that the charges were trumped up," or whatever language you used, I think we are commenting on motivation and we are commenting on matters which are not properly the subject of comment at the committee or in the Legislature.

Mr Philip: My legal opinion would be the same as the Chair's.

The Chair: You may refer to the fact of the charge or you may refer to the incident.

Mr D. R. Cooke: All right, I will withdraw everything I said and say, "Supposing something like that happened." Is that better?

The Chair: So long as you speak hypothetically, that is fine.

Mr D. R. Cooke: Supposing something like that happened. I am not saying it did.

I guess what I am trying to do is determine where we can reach some sense of civil understanding between citizens and police. If police might feel that strongly towards even another police force in investigating and laying a charge, why would an independent agency, which they would automatically feel somewhat estranged from compared to another police force—why would they ever feel better about that? I know you are not a policeman, but we do need to have confidence on both sides in this thing.

Dr Jain: I agree that the confidence has to be from both sides, but I do not see any reason why a person who is trained, who has had a great deal of experience, whose credentials are beyond doubt and who is appointed with the consent—a civilian, appointed with consultation from police forces—could not be appointed. I think that is a role, because I think the problem is police investigating police. That is one issue.

The other issue is that part of the reason for these racial conflicts, the shootings, etc., and the perception in the com-

munity is that no matter what happens, the police are going to side with the police, and unless you have a totally independent investigation, you are never—they are even afraid of going to the police to do any kind of complaint system that is in the first instance going to be investigated by the police.

I think that is where the problem is. I am not saying the police should not be included. In labour-management relations, for instance, what we have is both parties agreeing to an arbitrator. There is no reason why we cannot have that happen here.

If you are talking about the confidence, I think the confidence could be built before the person is appointed or a number of people are appointed. That is where I would take care of both sides, rather than after having appointed the person.

Mr D. R. Cooke: I think you have to face the problem that the police would look upon this agency, especially if it was civilian-dominated, as lacking professionalism. Second, they might be suspect of the people who would be taking the appointments as to what their motives might be, for whatever reason, and I think we would have to grapple with that.

Dr Jain: The forces would have to be brought in at that point, and then I think if they are party to it, they probably would not.

Mr McClelland: On the same matter but a little different aspect of it, I want to pursue your suggestion with respect to a civilian investigation, the capacity to investigate, a little bit and explore with you your thought on that.

It seems to me, and I would be interested in your response, that if you have a civilian force, a civilian group—agency—that begins investigating criminal matters, it effectively is conducting the process of policing. They are investigating a criminal activity, which is properly and appropriately the purview of a police officer in our society.

So what you do is you set up another agency, give it the powers of a police force—they effectively become police and require the training that police officers have to adequately conduct the investigation in matters pertaining to criminal or alleged criminal activity—but give it a different title. It seems to me that in the final analysis you have not really done anything that effectively deals with that situation other than to change the name.

I would be interested in your response to that, because it seems to me that we can do things for the sake of appearance, but substantively, at the end of the day we are going to have to have police officers, people trained in criminal investigation, to investigate allegations of criminality. By process of definition, you end up with police officers, whatever you want to call them. If they are former police officers serving in that capacity or people trained as officers but never titled as such, effectively you have the same function being performed. So I would be interested in your response to that and your comments.

Dr Jain: Just on the level of perception, I think perceptions are reality. If people feel that this agency is not serving their interests, then no matter how qualified the police officers on that agency, no matter how distant their connections, I think the community is going to feel that way. You are going to have a lot of trouble convincing people that this has been an impartial inquiry.

I do not see any reason why only police officers should be members of such a complaints commission. It would seem to me that there are a lot of people, such as lawyers, etc., who are trained in criminal investigations.

Mr McClelland: I did not say only police officers, and this is a slight clarification. I did suggest that to adequately perform the function, it seems to me a reasonable proposition that one would require specific training pertaining to that kind of investigation, that kind of training currently given to police officers.

Let me extend it, if I can, just for a moment, hypothetically. Let's suppose we create an agency and give it whatever title you choose. They then investigate allegations of criminality of a police officer. Over the course of time, it is inevitable, it seems to me, that they would just be viewed simply as another police agency in any event.

What you are saying is, perception is reality. Quite frankly, I do not accept that proposition. I think it is an easy way out of some tough decisions from time to time. But it seems to me that at best what you do is buy a bit of time until an investigation goes contrary to a particular interest group, again speaking hypothetically, whatever that group may be, and then the allegations surface again, "Well, they're really nothing but police officers in disguise," and so it goes. You eventually end up perpetuating the problem.

It seems to me rather what you have to do is to set down some guidelines, some accountability and some instruction in terms of reporting and monitoring. I do not want to really engage in an extensive debate here, but I am not sure, quite frankly, the creation of an agency for the sake of creating an agency would ultimately solve the problem. Again, I would be interested in hearing a quick response to that.

1750

Dr Jain: As I mentioned to you, I think that when it comes to criminal investigation, first there is the matter of being housed in the Solicitor General's department, which I find very objectionable, because the Solicitor General's department is a political appointment. He is responsible and accountable for police forces. Currently we have an excellent Solicitor General. That might change. I mean, nobody is there for ever. We have a Deputy Solicitor General who is extremely competent, but these things can change with a change of government or what have you. I would like to see an independent agency that does not have to report through the Solicitor General. So that is one point.

The second point about the composition is that I am not ruling out police officers who have been associated perhaps 10 or 15 years ago, who have no connection whatever, but certainly not as the head of that agency. I still think a civilian, just to give the message. Clare Lewis has done a fantastic job. I would like to see somebody like Clare Lewis, who has had the experience, who has the stature to be able to be head of that agency, but there is no reason why a minority could not consist of perhaps experienced police officers. I think that problem can be alleviated if we go through the other recommendations I made: lateral transfer, people to the employment equity, promotions of competent people.

There is no reason why a person has to be there for 20 years before that person is promoted to the rank of even inspector. I mean, you are going to see that perpetuation and you are going to see lily-white forces across this province. One of the ways to get around that is to really have an independent agency that looks after—there is no magic in a person being there for 20 years or 15 years before that person is promoted.

Why can we not have people who have the experience in other countries to be appointed at senior ranks? Why can people not be brought in and given police ranks who in fact have—police forces are not just doing policing; they are also engaged

in a number of other things. Why can people not be brought in at the rank of superintendent or what have you who can in fact be doing those kinds of tasks? It is those things that I think are inhibiting our ability to promote people and to have people in those kinds of commissions. I think that is the way I would like to go.

Mr Philip: What I think Mr McClelland fails to realize is that under this bill a majority of the investigations would be done by people who are not trained in investigation—the average police officer is not a trained, skilled investigator—and indeed that perhaps an investigation would be more thorough if it were done by someone who is trained as an insurance investigator or by another police force, Scotland Yard or the Hong Kong police force or whatever, and would be really independent of the police. You might have—I am sorry, Mr McClelland is smiling, but those are the very arguments that the Liberals made in opposition. Those are the very arguments that they made against the original legislation which the Conservatives introduced and which they said was not independent in its investigation process, and they do not like me to remind them of that.

The Chair: Smiling is not only permitted, it is encouraged, Mr Philip.

Mr Philip: Well, I smile sometimes, except sometimes when we get into serious things, I do not find them terribly funny.

In your concerns about employment equity, you ask for an independent monitoring. I wonder if you would not accept that by expanding the role of the police complaints commissioner to do independent audits and indeed to do investigations on his or her own initiative, such as the Ombudsman of Ontario may do or such as the Provincial Auditor of Ontario does regularly, such as the human rights commissioner could do, you would not need another outside body. Simply expanding the power under this act of the person we are already establishing under this act would give that kind of independence and indeed would mean that we would get regular reports from an independent source and investigations where that was necessary.

Dr Jain: Yes, I think that is perfectly agreeable to me, as long as that agency is independent, is not housed in the Solicitor General's department and is in fact accountable to the Legislature. I think that would be ideal, from my perspective.

I also find that there is no penalty provided in the bill for a police force that has not in fact made all good-faith efforts in view of what you are suggesting of the commission. I think that would be something that should be put in the bill. Otherwise, you are not going to see—I mean, what is employment equity? What are specific goals and timetables? What is measurable? I recommend those three terms, "measurable," "attainable" and "highly specific." They differ from one person to the other, and I would like to see it be put in the act rather than be left to the discretion of the department of the Solicitor General.

Mr Philip: I guess my concern is not that there are no penalties, but the penalties are so extreme that they are not likely to be used. Removing a police chief because his employment equity goals are not met would be so extreme that it is not likely to happen, or indeed parachuting in someone to take over the employment equity program would be such a slap to the face of a community and the police, which are the powers under this bill, that they would not be used and therefore something in between which would be less draconian is more likely to be a deterrent, because a chief knows that probably, if the provincial government decides to remove him, it is going to be an extreme

case, and if he does it for anything less than an extreme case, the community is going to back the chief of police against the visible minority or handicapped community. I just think if you make penalties so extreme, then they are not going to be used.

Dr Jain: I agree with you 100%. In fact, that is precisely what I meant to say, but I am glad you raise that. I would like to see the grant that the government of Ontario gives to a particular board be withdrawn.

Mr Philip: You mean you would withdraw the little bit that they are getting?

Dr Jain: I think that would be a way to let them have the message that the government is serious about employment equity. I agree with you that removing the police chief is a very extreme remedy. I would like to see the remedy in terms of the people responsible in the police department and the board; in the police department, for instance, that employment equity be built into the promotion, the compensation of people who are promoted from one level to the other and who are accountable. In industry that is what happens. If a manager does not perform

on this particular goal, among others, then the salary is withheld or the promotion is withheld or what have you. I think those are the ways to go.

Mr Philip: Thank you, Professor Jain. As always, and I have met you on a number of occasions, you have been helpful and I appreciate your contribution.

The Chair: On behalf of the members of the committee, I want to thank you, Professor Jain, for your brief and your comments and answers to our questions. I am sure they will be helpful to us.

The committee is now adjourned until 7:30 pm. Food is being served in room 112, which is across the hall on the main floor, and at 6:15 the constitutional committee will be joining us.

Miss Nicholas: Did I miss something? My agenda shows 7.

The Chair: The 7 pm presenter is not going to be here.

The committee recessed at 1759.

EVENING SITTING

The committee resumed at 1940 in committee room 1.

GILLIAN HUGHES

The Chair: Our first presenter tonight is Gillian Hughes. We usually allot 30 minutes per presenter and that includes times for questions and answers. Please proceed.

Ms Hughes: I want to speak to you briefly on some aspects of the relationship between policing and the underclass, of which I am a member. I live on disability benefits and I live in public housing.

Buried behind those matters is something very important I want to bring out. It is about technological power and corruption, specifically with regard to drugs.

There all kinds of power in society. There is the form of power that chases people in cars. There is the form of power that says you cannot have any money because the technological systems do not need you. There is the form of power that says you have to move out of your apartment because the real estate boys and girls are playing technological games with money now.

The police are the only form of power who have to account for the power, what they do with the power in actual situations and where they have to stop. They have to account for it to an actual other person, a judge, who can set limits on the power in terms that mean business. The other forms of power do not have to do that.

The hardware of police work, the technology, is about the only area where the government, the state, takes a direct role in developing new technology; and its use of that technology sets the standards for all other users of it. This is a very rare case where the developers of technology have some responsibility for what they do with it later.

Technological change has changed a lot of things since police forces were set up. In those days, both the privileged element of society and the criminal element of society were small—small numbers of people. The police and the criminals all knew each other. Neither of them knew the privileged, with the possible exception of pimps and prostitutes. The police could then make snap judgements about people with a practised eye. Everybody knew where in society they were supposed to be, and if they were not there, then they were up to something. And if the police put a little pressure on them, they would admit it.

Technology changed all that and made the privileged group larger. The rich are still a small percentage of the population, but their numbers are many times larger than they were. The relatively privileged group is huge, the middle classes and the people whose income level puts them in the middle class, although they are not professionals or business people. This group is much, much larger than ever before in history.

All these people owe their position in society, their mobility, to technological change. They are loyal to technology. They do not question it because technological power put them where they are. This change in numbers in the upper and middle classes, especially the middle class, represents the success of an economic system that said people could and should move up, and should be allowed to move up.

It also means now that nobody is going to move up like that any more. That kind of nearly universal mobility is now socially

and politically impossible. Because all those people are already there, those huge numbers, mobility is stalled. This means that it is now politically impossible for any government to do anything that would seriously create mobility up from the bottom. Governments today depend upon the loyalty of that huge middle class, and that middle class is too threatened by that, too threatened by people moving up from the bottom who might take their position in society from them.

This is a political secret of this society that is never talked about. It is really quite obvious when you look at these numbers. That is what is displayed in racist attitudes—fear of people moving up or, as this form of racist talk puts it, taking over.

There is one other thing I want to mention about racism—technological power. It was technological power that made the racism of the white colonialists more important than anybody else's racism. If they had not had the steam engine and the repeating rifle, nobody would even remember them and the hordes of looters and exploiters before them and the looters and exploiters that are coming after them. If the police were not the agents of technological power, nobody would even notice whether they were racist or not; they could sit by the side of the road being as racist as can be and nobody would care a damn.

Mobility is now stalled in an economic system that continues to insist that everyone must move up in a society where life is impossible if you do not move up. Those are the dynamics that are driving the drug problem. That and one more thing: There is a revolution going on right now, a technological revolution in the movement of money. Money is now a motion, a transit of signals travelling through groups of electronic information machines, signals that can only be interpreted by experts, highly specialized people. These experts who have the care and feeding of the new money have more power, a lot more power, than they had before. This is not just money; this is power, technological power; and everybody wants to get next to the new money, everybody wants to get next to the new-money people. This is what is going to lead to corruption.

For only one thing, this change in the movement of money means that everything in police work that depends on monitoring and interpreting the movement of money, all the procedures set up when that movement was stable and relatively slow, all that has now changed its meaning. This also means a change in the nature of criminality, in who is a criminal. Now in the old days, when the numbers of the privileged and the numbers of the criminals were small, once in a while somebody from the privileged group would become involved in crime, in criminality. This was always a problem for the police because the police had almost no sources of information in the privileged group—no informers, no pressure holds, no co-operation, no information. But it did not happen often, this kind of problem.

Now, with the new money, and especially with regard to drugs, that is happening more often and is going to happen a lot more often. That is inevitable. Nothing in police work is set up for that. It is not just a matter of technological obsolescence, the obsolescence of the equipment used or of the technological methods used. It is a change in who is a criminal; nothing in police work is set up for any large scale amount of criminality by privileged people.

Again speaking of the old days, in the other direction, somebody from the criminal element moving up into the ranks

of the privileged, the police knew what to do about that all right. They concentrated their efforts on making sure that did not happen, that criminals did not become privileged, did live off the fat of the land and so forth. A lot has changed, but this is still how the police react to somebody from the underclass who seems to be moving like a privileged person.

They react to it as egregious criminality. Whether or not such a person is in fact a criminal, they regard it as criminals getting out of hand, because the secret political rule now is that people are not supposed to move up from the bottom. Mobility from the bottom is near zero now. It is a closure of change, a closure of mobility, brought about by the success of mobility itself and the numbers of people it put into the upper echelons. The police are in the position of enforcing this closure of mobility, which was never written in any law book anywhere.

1950

Now when the police are in the position of enforcing unwritten laws and the upper echelons are engaging in new kinds of criminality, what are you going to get? You are going to get corruption. For one thing, what happens to prosecution when the resources of the state are no longer much, much greater than anyone else's? That is one of the things about the new money: It can create at least the effect of resources as large as or greater than the state's. What is that going to do to all the deals, the plea bargains and the other deals prosecutors make, that they must make now in the legal system as it is? What effect is that going to have?

Drugs: Those two things, the numbers and the new money, are what are driving the drug problem. Those forces are in the middle and the upper echelons, not in any underclass or marginal group. That is where it is. People in the middle classes are using drugs as a way of getting next to the new money—drugs as status symbols. They are also selling drugs as a way of gaining entry into status networks, the networks that control mobility. Mobility is very sluggish and uncertain for the middle classes now and they are turning to criminality as a means of achieving it; and not only drugs, of course. Of course, selling drugs is a source of tax-free income, especially for professionals.

You have to face these problems where they are and not cave in to the middle-class mania for concealing unpleasant facts about itself. For those at the bottom, in the underclass, drug dealing is a parallel credit system, like a black market, for people who have no access to the legal credit system. People making the minimum wage have no access to credit legally in a credit economy. That is like having to live by barter in a money economy. That credit problem could probably be remedied if anyone wanted to remedy it.

Nobody at the bottom has any control at all over these forces, and the police do not either, of course. The mobility problem is something the whole society has to face. Mobility has defeated itself by its own success. The money problem is controlled entirely from the top and it may not always be controllable at all by anybody.

The problem of responsibility for technological power is the problem of the 20th century, lurking somewhere behind all the other problems. It is a lack of living, meaningful political process—what got left behind in the pace of technological change. Technological power is a new kind of power to human beings. It is the kind of power that can create new forms of power all the time, faster than anybody can control them, and nobody has to be responsible for it.

This is what caused the first wave of drugs in the Industrial Revolution, the new industrial workers using distilled alcohol and opium. This was a reaction to the acceleration in the pace of economic life due to the Industrial Revolution. These depressants slowed down the body's reaction to that tremendous, unprecedented acceleration, as a reaction to technological change. The pace of economic life has accelerated ever since and people have reacted to it by using drugs.

The other thing technological power does, or technological rule—rule by means of or by right of technological power—is it demands more and more compliance from everybody all the time. Rulers did not use to do that. They had limits to what they could demand. The limits were set by tradition. The rulers could not change them. The law is responsible power. That is what makes it law. Technological power is fundamentally irresponsible, so far. Nobody has found any way of making it responsible. That leaves the forces of law and order in the position of using the means of force to protect irresponsible power. That is lawlessness, and that is the root of a lot of these problems.

You cannot redefine it as a social or a medical or an educational problem. It is a problem of power, political power. Any echelon or any profession that has power without responsibility is going to get out of hand and misbehave itself. That is in the nature of things. It is the whole society that is supposed to have the responsibility for power, through the political process.

That is not happening. You cannot evade it by redefining it, because no other sector of society has any responsibility for power any more than the police do, and usually less. No social welfare administrators—and they are the economic police of the underclass—ever have to go before a judge and account for what they do with their power, which they abuse constantly, and which abuse also causes death, though indirectly, by combinations of malnutrition, disease and exposure, and especially exposure to violence. You cannot rely on social welfare or health care or do-gooding not to abuse power either.

No tax collectors, the economic police of the middle class, have to go before a judge and say, "Look, we know it's a different set of rules now, but we're going to keep on enforcing the old rules anyway because we don't feel like taking the responsibility for changing them."

As for the do-gooders, does anybody remember how corrupt the old-time do-gooders became in the 1920s and 1930s, the kind of deals they used to make with the bootleggers like Al Capone, and with the police? I think we had better think about that before we plunge headlong into any more drug rehabilitation programs, before the do-gooders form too many cosy and corrupt relationships with the better class of drug dealers.

I do not believe these problems can be solved by naked expertise or by specialization and specialized thinking. For one thing, any group of experts or specialists that deals with them will inevitably become corrupt, because there is no effectual responsibility to other people.

I will sum it up: The way to get a grip on these problems is to draw everybody in society, and not just the experts and specialists, into a real effort to work out a process by which people are responsible to other people for technological power, responsible to other people and not just to a set of books or a group of machines. Books and machines cannot interpret changing situations; human beings can. And, for God's sake, we do not need any glorious leader who is a machine, a Führer with an acronym for a name.

A good place to start would be what is happening right now with money. Try getting people to contribute their point of view about how it is affecting their own lives and the people they

know. That is society—everybody and everybody they know. That is the only group of people who can be trusted to handle responsibility for technological power—everybody.

Now you know what there is to do, something about what there is to do, and who is going to do it.

Mr D. R. Cooke: This was a fascinating treatise on power, the philosophy of it. I think it is something we all have to grapple with in different roles in life. It is so easy, even in family life as well as in public life, to assume certain things simply because it is there.

The reason I had a question was that, as sometimes an unabashed do-gooder, I was a little confused at the suggestion that in the 1920s and 1930s, they became corrupt. I did not know; I was not around then.

Ms Hughes: I was not either personally.

Mr D. R. Cooke: What were you referring to?

Ms Hughes: There are legendary abuses in Chicago in the days of Al Capone. This is probably the time when the term "do-gooder" came into use. They were charged with the welfare of the poor. Some of them were primarily religious groups; some of them were secular in their orientation. They were charged with running soup kitchens, relief efforts and attempts to rehabilitate alcoholics. This is what reminded me of the drug rehabilitation problem now.

What they did was take money from the bootleggers, use it to run all kinds of schemes that benefited them, that benefited the people running the rehabilitation and welfare programs, while maintaining a façade of respectability. They were acting as a kind of covert stash for bootlegging money at the same time as they were running rehabilitation programs for alcoholics.

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Mr D. R. Cooke: Why would the criminals be giving them money?

Ms Hughes: It was a way of hiding their money, of course, which they had to get rid of. What eventually caught Al Capone was the income tax people. It is a way of hiding the money, sort of laundering the money.

Mr D. R. Cooke: But you do not get it back when you give it away to soup kitchens.

Ms Hughes: What I mean is that in this way at one time a bootlegger could create a façade of social respectability for himself and also have a way of laundering the money in which he would get most of it back, but the do-gooders would get some of it also.

Mr D. R. Cooke: I see.

Ms Hughes: It is that kind of deal I am talking about here. I think that is inevitable in the situation we have. People believe that bureaucratic systems make corruption impossible. They do not make corruption impossible, and technology does not either—computers. I think it is inevitable those problems will recur unless there is a better grasp of the nature of power.

Mr D. R. Cooke: You answered a lot of the questions, but you posed a lot of them for us. I think it is those interesting treatises that we should all take out from time to time and read, but you do not have an answer to a lot of the problems that we are facing as to giving power to the police and how they should be using it.

Ms Hughes: I think everybody has to answer, seriously.

The Chair: I do not see any other questions from committee members, so on behalf of the members of the committee I want to thank you for coming before us and sharing your ideas and recommendations.

Ms Hughes: I will leave you with four copies of this piece.

The Chair: We appreciate that.

CITY OF NEPEAN

The Chair: Our next delegation is from the city of Nepean; Mayor Ben Franklin and Merv Beckstead, the chief administrative officer. We generally allot 30 minutes per delegation, which includes questions, but I am sure you are aware of the fact that you can use less time if you so choose.

Mayor Franklin: We are going to do you a favour.

The Chair: You have provided us with copies of your brief, which I think have been circulated to the committee members. Please proceed.

Mayor Franklin: I am going to start out by indicating that some have described hell as responsibility without authority.

Mr Villeneuve: Who is that?

Mayor Franklin: Many people.

The city of Nepean, I want to point out, endorses the position of the Association of Municipalities of Ontario on Bill 107 and we would like to express our support for AMO's labour relations committee proposal on employment equity programs.

Bill 107 clearly defines policing as a municipal service and delegates to municipalities the financial responsibility for providing adequate police services. However, all authority for the actual provision of services, including budgeting, remains in the control of a separate board dominated by provincial appointees. We believe this arrangement in the bill is unacceptable.

Political accountability and the responsibility for management of the police function should also be delegated to municipalities, and accountability to the taxpayers must not be just thrown away and ignored. If that were not the case, one could just have the Ontario Provincial Police responsible for policing in Ontario and have it centrally controlled here in Toronto, and that would be the end of local policing.

In 1990 the police service budget represents in our case, and I am sure we are no exception to many municipalities in Ontario, over 20% of the city's total budget in terms of our operating expenditures. It is evident the Police Services Act will result in increasing expenditures for this service. Municipal councils must be accountable for their expenditures, particularly expenditures of this magnitude.

The Association of Municipalities of Ontario has prepared, I believe, a very thoughtful position paper on the proposed Police Services Act which was presented to the standing committee recently. AMO is strongly opposed to Bill 107 in its current format and recommends it be amended to eliminate provincial control of municipal police services boards and municipal police budgets. AMO specifically recommends "that the municipal provision of police services be directly politically accountable to the municipal councils of communities being served."

The majority of members of municipal police service boards should be appointed by municipal councils, in my opinion and in the position of our council, as opposed to being appointed by the province. In terms of provincial contribution

to municipal police forces, in our case it is under 15% and I think that is probably reflective of most police budgets across the province.

In summary, I would just like to make a strong representation to the committee that these provisions for provincial control of the local police commissions or boards, or whatever the terminology ends up becoming, not be extended and that at minimum the majority of members of a commission be appointed by the council. I think this is just so important.

The bill, and there are examples contained within it, extends provincial control of local police forces—in our case we call ours the Nepean Police Service—and in our written submission to you we have outlined just some of the areas where the bill expands the control from the provincial government, and yet at the same time the accountability for the expenditures and for policing in the community rests with the local council.

I do not think you can have it that way. If you are going to do it that way, just abolish local police forces, set up OPP units and run them all right out of Toronto.

Those are the main points I wanted to make. We feel very strongly about this. Again, I know this point was contained in the AMO brief. We feel that it is such a thrust towards centralized control, it is going just in the opposite direction of accountability for local budgeting and just flies in the face of accountability to the local ratepayer who is paying the bill for the police service, that it should not happen.

If indeed you wish to proceed in this light, you should amend the bill so that the local police commissions are at least majority appointed by council, or in some cases are committees of council.

Mr Villeneuve: We sometimes get altogether tied up with problems that occur in the city of Toronto that are not very major problems in the likes of the city of Ottawa or the city of Nepean. Could you possibly expand on some of the concerns you have with this particular bill as it relates to the city of Nepean as a rather small municipality? You may want to touch on how many police officers you have and how many complaints you have had. The reason we are sitting here is complaints against police officers, complaints against the entire police mechanism. I am just wondering out loud. I think it is serving our people reasonably well out there. I would like to know your comments and have you expand on some of those things.

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The Chair: Perhaps I can interrupt just for a minute and defend the city of Nepean as a rather small municipality that now has over 100,000 people.

Mr Villeneuve: And growing very rapidly.

The Chair: And growing.

Mayor Franklin: I think there is a tendency for all governments, no matter at what level, when you have a problem, to go forward with some kind of law and control things. There is no question that it is a very sensitive issue. I do not pretend to know the details or understand the sensitivities of the problems in the Toronto area. I come to Toronto from time to time. I enjoy coming to Toronto and enjoy the city. I think it is, frankly, one of the outstanding cities anywhere that one could visit.

However, with the problems that you mentioned in the Toronto area, I think there is a tendency to want to control everything with one piece of legislation for all police forces.

What is happening is that provincial control is being expanded right across the province. As the control is being expanded, responsibility is being taken away. Accountability to local ratepayers, who pay the majority of the bill, is being taken away as a response to the particular problem that exists or that has been defined in the Toronto area.

Examples of increasing provincial control of policing are numerous throughout the bill and I highlighted some of them. Currently there are 51 municipalities where policing and budgetary control of policing is the responsibility of the local council. These are the smaller areas.

All municipalities legislated as responsible for the provision of police services will now be required to establish municipal police services boards. The majority of the board members, including the chairman, if I read the bill accurately, will be appointed by the provincial government. I do not know how the provincial government is going to know what is best in some of these small areas to the point of appointing the chairperson. What they are doing is they are again expanding and taking away from the locally elected area the responsibility, for a centralized rule. The local ratepayers are just being told, "Here's the bill."

When you have something like that, a provincial program that is universal throughout, you normally cover that in your provincial taxes and there is no need for a localized police force. Localized police forces should be that, local to an individual area. Of course, problems are different throughout Ontario; crime rates are different. I do not know in terms of standards how you can set one standard for one community—it could be older, younger, different crime rate, different types of crimes. I do not know how you do that. To me, it is going just in the wrong direction. It is not localized policing; it is centralized policing with local payment.

There are other areas in the bill, such as a significantly expanded role for the provincial Solicitor General's office to prescribe standards for police services, to have a civilian commission responsible for the enforcement of standards, and mandatory employment equity plans for every police service that must be approved by the Solicitor General. There are many other examples. We in Nepean have approximately 140 police officers and 50 civilians. Our budget currently is at \$12 million.

Mr Villeneuve: It is very interesting to note that you are very concerned about your loss of autonomy. You have been given responsibility in many other areas from the provincial government and here you appear to be losing autonomy. You have 140 police officers in the city of Nepean. It is my understanding that somewhere in this bill is the possibility of the city of Nepean or any municipality being charged for additional policing costs by the OPP or whatever police force. Could you comment particularly on your feeling of the loss of autonomy in your police department.

Mayor Franklin: I think basically that is the thrust of what I have been trying to communicate to you. We feel very strongly that while there is a need overall to have efficient policing and to respond to the problems, the electorate selecting the police commission through their locally elected councils should be without question, because the local electors are paying 85% of the bill and should have a say, and the majority say, in the composition of the police commission.

To turn that over to the Lieutenant Governor in Council, who would be getting advice passed along through different hands than mine, means that not only is there the chance to maybe make the wrong appointment, because peers appointed

to a committee can frequently be the best judges to select people like your chairperson, but again it removes it from the locally elected people who really represent the people paying the bill. There is no accountability. In a democracy you must strive for accountability; you must not remove accountability.

Mr Villeneuve: An excellent point. Just finally, you have 140 police officers in the city of Nepean. The city of Toronto has 5,000-plus. What you are concerned about is that there will be rules set up to look after the city of Toronto that you will have to abide by and live and die by. Just comment on some of the concerns you have in having a universal regulation for police officers basically meeting the city of Toronto requirements that you in the city of Nepean—

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Mayor Franklin: Which requirements are you referring to?

Mr Villeneuve: Nothing in particular other than your concerns as to the loss of autonomy.

Mayor Franklin: That is the thrust of what we are saying. The thrust of what we are saying is that there has to be accountability. You cannot increase the responsibility, increase the cost—

Mr Villeneuve: And lose autonomy.

Mayor Franklin: —and lose autonomy.

Mr Villeneuve: Okay.

Mayor Franklin: With your permission, Mr Chairman, I would like our chief administrative officer, who has really been a part of this whole process, to make a few brief comments.

The Chair: Certainly. We do have another questioner with some questions. We can defer that until Mr Beckstead does his comments. I also have a couple of questions I would like to ask when Mr Cooke is finished. Go ahead, Mr Beckstead.

Mr Beckstead: To respond a bit to Mr Villeneuve, one of the areas where we have considerable concern, as the mayor has pointed out, is the loss of autonomy. If you carry it a step further, salaries of police officers are essentially set by the province because they all relate to each other. They take you through the labour process to provincially appointed arbitrators. If you start looking at over 20% of our budget being so far beyond our control that we cannot appoint the chairman of the police commission, I think it is unreasonable. I think as an administrator that it is very difficult for us to provide sound financial management to our council when there is someone, literally speaking, in our pocket over whom we have virtually no control for one day out of the total of the week.

Mr Brown: I am not a regular member of this committee. Under the present act, it is my understanding that the majority of the commissioners are also appointed by order in council. Is that correct?

Mr Beckstead: That is correct.

Mayor Franklin: In our particular case. There are some communities—51 of them, to be exact, basically your smaller police forces—where basically they are appointed by the council and/or committees of councils.

Mr Brown: I have one of those in my riding. I just was trying to clarify whether this was a change or basically the way it has always been in terms of representation.

Mayor Franklin: Save and except that the bill goes further and says that the chairperson shall be appointed—in the act, I believe—through the Lieutenant Governor in Council.

Mr Beckstead: In addition, that is a point that has been brought forward by municipal groups many times in the past. They do not think that is right either.

Mayor Franklin: We are not saying we agree with the current situation. Again, we get into labour aspects, and that is a matter for another day. I think you probably know the feelings of municipalities in terms of how the arbitration process has walloped local tax rates, and the inconsistency of police versus fire arbitrators.

Mr D. R. Cooke: Mr Franklin, have you sat on the Ottawa-Carleton police commission at all?

Mayor Franklin: Yes.

Mr D. R. Cooke: We heard from the commission.

Mayor Franklin: No. That is Ottawa. There is the Ottawa Police Commission and there is the Nepean Police Commission.

Mr D. R. Cooke: Oh, I see.

Mayor Franklin: We are the Nepean Police Commission.

Mr D. R. Cooke: You have your own commission. In my region, we have a regional commission.

This question is precipitated by Mr Brown's question. I frankly have kind of tuned out the complaints. We have had a lot of them from municipal people complaining about who appoints whom to the commission. At the same time we have had some pretty strong submissions to the effect that the commissions do not accomplish anything anyway and do not do anything. We had a member of the Metro Toronto Police Commission claiming his own commission was inept. We had strong suggestions that the police departments really run themselves with very little authority given to the commissions to do very much. I find at the provincial level—

Mayor Franklin: Are those in Toronto?

Mr D. R. Cooke: Mostly in Toronto, to be fair.

I am just saying as a politician, and you are a politician, that I find at our level that when we see the need for appointments to agencies, boards and commissions, generally we like to try to find good people who will do a good job and we will not have to worry about them. Frankly, it does not matter a heck of a lot whether we, the municipality or the federal government makes the appointment, as long as we have good people in there doing a good job.

I certainly can understand the debate as to how much power we should give to police commissions as opposed to the departments. I am a little mystified by the debate as to who makes the appointments and why municipalities are so sensitive.

Mayor Franklin: Maybe you are missing the thrust.

Mr D. R. Cooke: I must be.

Mayor Franklin: First of all, as to the individual who indicated that his commission was inept, I cannot comment on that. Maybe that is not the majority position of that particular police commission. If I can put it in perspective, I wonder what the provincial government would feel like if the majority of members of the commission that runs the OPP were appointed by the federal government.

Mr D. R. Cooke: As long as they are good people, I would not be upset.

Mayor Franklin: I see.

Mr D. R. Cooke: But not with the present federal government, of course. If we had a good federal government, it would appoint good people.

Mr Villeneuve: Come on, David.

Mayor Franklin: I am not getting into that debate.

It has to do with accountability. You are saying as long as they are good people. A political appointment is a political appointment. Basically what you are saying is, "Let us make the political appointment, but we don't really want to put much money into the funding of it." What I am saying is, if you want to do that, pay for the police service and then you are accountable. We raise the taxes locally through the local mill rate and we should be accountable. If we are accountable, then we should have the majority of the appointments. It is not for the sake of power; it is for the sake of accountability.

We believe our police commission is effective. We do not dictate the running of the police department. I like to think that the commission sets the policies and ensures efficient operation but, as for the day-to-day operation, that is why you appoint a chief of police and a deputy and so forth. But I like to think our commission responds to the needs in our community. It maybe does it slightly differently than some other communities do, or maybe they ask the chief to investigate putting more emphasis on this or more emphasis on these teenage programs or so forth.

It is a case of accountability, not political appointment. Do away with all local police forces and let the OPP run them right across the province and then pay for them. Then you can be accountable to the taxpayers through the provincial and sales taxes. We are currently accountable. You certainly know a number of people in municipal government. There is not a day that goes by without somebody asking about local property taxation. Most people know, year to year, what they have paid in property taxes. I will bet you they do not know what they paid last year in provincial income tax versus the year before, but they sure know their property tax.

All we are saying is that in a democracy, accountability is an important principle, and this bill in its present form takes us away from accountability.

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Mr D. R. Cooke: Your logic is excellent. I guess the message is received. I suppose you are saying, logically, though, if we let you appoint all the members of the commission, you would not complain then about the cost.

Mayor Franklin: We are not saying that either.

Mr D. R. Cooke: That is the logical extension, though. You do not want any provincial assistance, then.

Mayor Franklin: This bill is going to add to the cost. If we get into financing of police forces and you look at the grants and the percentage of provincial contribution, it is dropping year after year after year. In fact, that is one area where the province should be making a substantial effort to keep up, particularly as crime becomes more sophisticated and you need to fight crime in more sophisticated ways. The province is falling behind in financing of police services.

I am not saying there should not be a bill. I am just saying that this bill, in the way it is set up, takes accountability away. I

am not saying it is there now either. But this is even worse, is what I am saying.

To me, there should be an approach in terms of financing with guaranteed revenues. The province should be paying its fair share of local policing, because obviously the rules are provincially set. In some communities the province pays 100% of the shot, yet in other communities it pays 15% of the shot, so there are a lot of inconsistencies.

I am just saying, do not take away from the accountability that is there. It is not totally there now with police arbitrations and so forth. That whole system has placed salary increases of police and fire far above your provincial civil service increases and so forth. In terms of the averages, in terms of OMERS employees, their increases over the past decade have gone up substantially more, are substantially greater. Full accountability is not there now. This bill just goes one step farther away.

Mr D. R. Cooke: I am curious. I come from Waterloo region. We have a region-wide police department and commission. You do not.

Mayor Franklin: Correct.

Mr D. R. Cooke: I envisage your city as being a fairly large city, as the Chairman said, but also essentially a suburban city, if I can say that, if that is fair, so a lot of police activity surely goes across border.

Mayor Franklin: Yes, it does.

Mr D. R. Cooke: What is your view of region-wide police departments?

Mayor Franklin: Do you have an hour?

Mr D. R. Cooke: No.

Mayor Franklin: In a nutshell, I believe that the benefits of regional policing are very minimal. The cost implications and the new bureaucracy that you would create would just add to the cost of policing. We have taken a very close look at it. We have looked at some work done in the United States in areas that have done this. It would result, in our opinion, in a much bigger bureaucracy, one that would certainly add to the cost of policing overall.

Mr D. R. Cooke: I would love to spend an hour on that. Obviously we cannot.

The Chair: Thank you. I have a couple of questions I want to ask, just for information. Looking at the city of Nepean, particularly, what is the composition of your police commission at the present time?

Mayor Franklin: Five people.

The Chair: How are they appointed?

Mayor Franklin: By the province? Three.

The Chair: Three.

Mayor Franklin: The mayor and one member are appointed by council.

The Chair: What is proposed for the city of Nepean under the new legislation; roughly the same?

Mayor Franklin: The same, save and except that under the act the chairperson would be appointed by the province.

Mr D. R. Cooke: In terms of effect—

Mayor Franklin: Is that not correct?

Miss Nicholas: No. Just for the record, Mr Chair, can you show the amendment to section 28? Perhaps I could read it into the record, because there have been two references made to the appointment of the chair: "The members of a board shall elect a chair at the board's first meeting in each year."

Mayor Franklin: When was that done?

Miss Nicholas: We just received the printed copy today, but it was tabled last week, last Monday.

Mayor Franklin: We were unaware of that.

Miss Nicholas: I was trying to jump in earlier, and I still want to be on the question list.

Mr D. R. Cooke: We have a very sensitive Solicitor General.

The Chair: Even so, if you are looking at the majority of the board being able to select the chairperson, there might still be some validity in your argument. In practical terms, what extra power does the chairperson have? What difference does it make in the deliberations of your commission as to who the chairperson is.

Mayor Franklin: I think it means a lot. Your chairperson is the head of your commission. In many cases your chairperson actually sits down, particularly in smaller forces, and is part of the labour negotiation process.

The Chair: If you look at the city of Nepean, what difference does it make to decision-making who the chairperson is? I am just sincerely looking for that information, whether it does make any difference.

Mayor Franklin: You can have a chairperson who just sits down and says, "Okay, chief, whatever stuff you bring forward, put in an agenda and I will sit and chair the meeting," or you can have a chairperson who is actively putting material together and asking the chief to evaluate, to bring back. In other words, you can have someone who is a proactive chairperson versus an inactive chairperson. Your chairperson at many police functions is your spokesman for your group. That is an important function.

To me, there is a certain amount of a leadership role. A chairperson has to be one who probably relates more, and from time to time does have meetings with the union. It is important that the chairperson have some ability to promote a harmonious force. Some people would not make the chair—

The Chair: How long have you been on council now in Nepean, Mr Franklin?

Mayor Franklin: Since 1973.

The Chair: So you have been there a long time and you have seen a number of police commissions in action over the years. I am not asking you to get into personalities, but I think it would be important for the committee to know what your impression is of the quality of the provincial appointees over that long period of time. Obviously it covers two different governments and so on and so forth, but I am not trying to get into the politics of it. Have the people been responsible, by and large, and responsive to the community and to the needs of council?

Mayor Franklin: By and large, without mentioning any names, the majority of members, I feel, have been reasonably good appointments. In fact, the current appointments, in my opinion—obviously by mentioning current, I am mentioning names—are very good. That, however, is not the issue. It is one

of accountability. Again, I am saying the majority should be appointed. You might get the same people appointed. Who knows?

The Chair: We are running out of time and I do not want to get involved in a lengthy response. Perhaps it is best directed to Mr Beckstead. In terms of accountability and financial burden on the municipality, if you were to visualize your budget from the police department or the police commission and look at it line by line, could you give the committee some examples, very briefly, just by highlighting them, of where your budget would be increased as a result of the passage of this legislation. Just sort of point them out without a long explanation.

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Mr Beckstead: There are a number. I will just use one quick example, the establishment of the civilian boards. There is a section in the act, and I have the old copy marked up, section 75: The chief "shall establish and maintain a public complaints investigation bureau." The second subsection of that says he shall ensure the bureau is supplied with sufficient staff to perform its duties. I mean, that is an added cost to solve a problem that we do not think we have in Nepean. That is one example. There are others, but in the interest of time, I will stop at that.

There is never enough money, as you know, in government, to do all of the things that need doing, and our hands are very much tied when it comes to police budgets. Mayor Franklin summed it up a moment ago by saying we have had good police commissions to work with most of the time, regardless of who appointed them, whether they be council members or provincial appointees. We have a good rapport and we do spend a lot of time with the police service in budgeting and administrative areas and we have a good level of co-operation. But that is not necessarily going to continue. It depends on personalities and those sorts of things. If you have ever seen a council going before the Ontario Police Commission over its police budget, it is not a pretty sight. We do not ever want to do that.

Miss Nicholas: First, I was glad to hear that you thought there should be a commission, or provincial control of policy decisions in the police profession to maintain some kind of control over the province, or some kind of standard. You did say that, I believe, in one of the points you made.

My interest tonight would be your comments or perhaps your reaction to some of the presenters we have had before us prior to you, the Metropolitan Toronto Police Association, the Police Association of Ontario, the Ontario Association of Chiefs of Police, who have all echoed in no uncertain terms their strong opinion that there should not be municipal control over commissions. Their concerns, while I would not want to summarize them too briefly, were about political decisions that may be made if the commission were controlled municipally, perhaps particularly in election years; that this would affect the funding, the police services that were provided in areas. This is something they have come in front of us with time and time again over the last couple of weeks, and they strongly made the point that they are opposed to the municipal control of commissions. Tonight you have come before us with a different view. If you could respond perhaps to their specific concern and to the view they have expressed before us, I would appreciate that.

Mayor Franklin: You could say that about any service for which you are collecting money from the local ratepayers and have responsibility for. If you are appointing the majority of the members, you are being accountable to your electorate, and that

is the case with most services. The composition of the board that operates the OPP, I suppose you could say, in election years is manipulated by whichever government is currently in power, and you could basically answer your own question that way. I do not know what to say beyond that. You are accountable.

At one time the province made the majority of appointments to library boards, I believe, and everyone was terribly fearful that library services would go downhill if the act were ever changed to make the local council have more appointments on the library board. Well, any council I have seen which has taken on that responsibility, such as in the case of Nepean, has greatly enhanced library service.

So I suppose we should take the OPP away from the control of the provincial government for fear that you are going to manipulate it in election year.

Miss Nicholas: Do you think we manipulate the OPP now?

Mayor Franklin: Not that I am aware of. I think, through the office of the Solicitor General, some good programs have come forward, the Reduce Impaired Driving Everywhere program and things like that. But again, you are accountable for those expenditures. What I am saying is, if somebody fears that some municipality is going to manipulate—I do not know whether you make your decisions based on statements of fear or not. To me, in a democracy, accountability is a very important principle. I suppose one could say that if we had a benevolent dictatorship, that probably would be the ideal solution to a lot of things, but I do not think you would want it.

The Chair: On behalf of the members of the committee, I want to thank both of you gentlemen for presenting us with your brief and answering the questions. I am sure it will be helpful to us in our final deliberations.

WORRICK RUSSELL

The Chair: Our next presenter is Worrick Russell, if he will come forward, please. We usually allot 30 minutes per presenter, and that includes time for questions, so please proceed.

Mr Russell: First of all, I want to thank you for the opportunity to speak on the issue. I have gone through the bill and I am not sure I understand every process, but I am addressing what I find to be the ongoing beliefs and opinions of people within my category of life within Metropolitan Toronto.

I am basically, as you might notice, of African blood heritage. That does not mean that I am from Africa. An African blood heritage may be a Jamaican African, an African Canadian, an American African or whatever, but basically the heritage is the same.

Over the weeks, the municipality of Metropolitan Toronto, particularly through its chairman, made a lot of statements and they really shook the community, people like myself. Many people have not really come forward to say anything, but I think this is the opportunity to do it.

I have been looking through the bill. The first recommendation that I want to put forward is that an appointee of the Ontario Human Rights Commission automatically become a member of the police board in a consultative role, not voting on issues and therefore not having to compromise his or her position with the human rights commission.

The second recommendation is that the Solicitor General make timely public disclosure of developments within the employment equity plan; that is to say, what developments, how many people have been employed, from which sector,

race, class or creed. This may be done monthly or yearly or whatever.

The next recommendation is that the employment equity plan be developed to have police forces reflect and represent the overall community and municipality that they are serving—this one is basically referring to the municipality of Metropolitan Toronto, where although there is an employment equity plan in place, we still see only token police officers representing the various groups—and that the employment equity plan be made in every rank and file of the force and extended to boards, commissions and civilian staff.

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In the area of one force investigating another in problem situations, we are very well aware that when you are in a particular profession, there are certain biases towards that profession. As such, if a police force were investigating another police force, there would be police bias in those investigations. I am recommending that a special investigative trained civilian unit be designated to the Solicitor General and randomly selected for investigations. This means that it will not be a small unit but a unit that is spread out and, for any investigation, the Solicitor General may select from it randomly to do the investigation.

In dealing with boards and commissions, one expects that when appointments are made, the appointees will perform. Therefore, the clause which says that two may form a quorum does not seem to exactly fit. I would like to see that changed; that no less than 50% of appointees form a quorum and that except for illness and other serious matters, appointees who miss three consecutive meetings without satisfactory explanation be considered to have resigned. What happens there is that when these boards and commissions receive the appointees, most people have received their political plums. The survey determined many people have had no input, or little input, into boards and commissions. So if there is a clause to ensure that this is done, then at least you will get some service.

I was just listening to the honourable member here saying that the chair would be selected from among the commissioners, so I would ask you to strike out that clause.

It is the duty of police officers to bring to the attention of the chief of police any fears or experiences that may prevent him or her from performing his or her duties in the prescribed manner. I am basically drawing this from the recent situation in Scarborough, where apparently this police officer had a previous bad experience in restraining someone on the street and no one knows how it might have affected him psychologically in performing in the future.

As regards the above, the chief of police will review the above to ensure the capability of the officer in performing those tasks and place the officer in the area that he serves best.

In making public statements of police misconduct, the chief of police will meet the alleged police officer to receive firsthand information and review and ensure accuracy before making timely disclosure. Again, the recent situation in Scarborough is such that the first thing we received on the news from the chief was that there was an altercation. Then it gradually changed as things came into play.

What happens is that there are people like myself in the community who really depend on the police force, and if I depend on the police force, it means I have to depend on the chief to give me the accurate information. Any information that comes from the chief that may seem to be misleading can really shake the community.

The recommendation that a police officer is guilty of misconduct if he or she engages in activities that impede the effectiveness on the commission or commissioners or boards: I see this going on here in Metropolitan Toronto with officers calling for commissioners to resign and officers and commissioners going to verbal wars in the press. It makes you wonder who really is serving whom in this particular situation and what their real roles are.

The next factor is it is understood that commissioners, in my view, in their appointment are drawn from the community to reflect and share the community's views with the board, the commission and police, so as to ensure accountability of all parties one to the other.

Therefore, commissioners may need to make timely releases on issues so as to get a feeling of satiety within the community. In other words, a commissioner may just make a public statement to see what response the community might want to give to that particular statement and to see what kind of feedback the commission or the board may want to have. In those cases I believe that calls by police officers for commissioners to resign in response to those criteria lend questions to the intent of the police association and its role.

The duty of the commissioners and board members, as members of the community see it, and the continuum of the appointments, rest largely with the community they serve and the satisfaction of services derived by the community. Therefore, like most people I have spoken to and had discussions with, I am recommending that commissioners should never consider themselves as a public relations arm of the police force. They should just act as a commission and try to ensure accountability on all issues.

The clause on the area of suspension, in my mind and those of many people I have spoken to, places some restriction on the chief of police. I think it presently reads that the chief of police should suspend, but the suspension is with pay. I am recommending that suspension should be done, with or without pay, based on the chief of police's assessment of the gravity of misconduct. If it was a very grave incident, then it should be something that the chief of police has the opportunity to decide, that the suspension will be without pay. Of course, there would be an internal grievance procedure to deal with that.

The principle of suspension with pay seems like an inducement to commit misconduct. For example, if I were a police officer and I wanted to get some paid time off, my first and foremost activity would be to go out and commit some form of misconduct to be suspended. I know I would get it with pay. So to give the chief some guidelines as to suspending with or without pay may be a better alternative.

Additionally, the clause which authorizes the chief of police to suspend a police officer only after he has been sentenced to a term of imprisonment bears varied implications, as we all know that you could be convicted of an offence in court and not be imprisoned.

I am also recommending that police associations acting on behalf of police officers and members serve the purpose of the adjudication of labour relations, except as necessary to maintain the peace when their role is to ensure conformity with the act and its regulations.

I notice that there was not very much put in there on the role of police associations and the negotiating role that police associations and police unions serve. That was an area that I think was greatly lacking.

Police associations do not, in my mind, bear the mandate to publicly criticize the Solicitor General's or the Lieutenant

Governor's appointees to boards and commissions under this act, and that should be a recommendation. Therefore, it is necessary that a formal internal mechanism be designed to review issues of troublesome consequences to the police and the police associations.

I have just recently received some documentation from Metro council, and it appears it is asking that it take control of the police board. I was really concerned about that because of the way it acted throughout the process. As such, I am telling the committee, Metro council has not demonstrated sufficient sensitivity on the issues of police confrontation with a major segment of the community, particularly the black community. In fact, political rhetoric from Metro, particularly from its chairman, could have turned the whole management of the ongoing crisis into a disaster. It is not necessary at this point to switch any further control of the police services board to that council. Metro has the authority and Metro has a major voting block on the board to seek information on issues and to influence decisions.

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The other factor is that it appears many municipalities and Metro are seeking to take control of boards because they are going with the fact that they have to give the financing. Well, they are getting the service, so they should pay for the service. As such, I am recommending that passing over boards to segregated municipalities may cause differential methods of policing within each force. That is like in the United States, where one sheriff controls his police force from one week to the next. A provincial structure of appointments will continue to enhance a well-roundedness. At the same time it is necessary that the province continue to ensure that municipal councils pay for the budget needs of police forces so as to ensure that ongoing police standards are met.

Finally, as race relations cannot be inscribed into any individual through short-term courses, which seems to be the course the police force is taking—sending all its officers on short-term courses and then saying, "You now have a race relations certificate, so now you are pretty good in race relations"—I am recommending that it is necessary that new recruits and those seeking promotion demonstrate competence in the area of race relations.

In conclusion, please allow me to commend the province on the proposed bill.

Miss Nicholas: I would like to thank you for your presentation tonight and for coming before us. I have, I think, just two questions. One is that your statements revolved around perhaps the numbers in the force not representing minorities as well as you would like to see them. As well, I think the ministry has expressed its concern. But you said they were not representative and even implied that perhaps they were not given the opportunity to become part of police forces.

Last night we had before us Deputy Chief Peter Scott of the Metropolitan Toronto Police Force, who expressed to us his frustration in trying to get people from minorities to come forward and want to be part of the police force. He even indicated to us that he is trying to look outside Canada to find people who want to come, to almost bring here from abroad people who represent some of our minorities to be part of our police force, because the people who are already here, who may be fairly new immigrants to Canada or perhaps reflect the growing multicultural society that we have, are not interested in being part of the police force. This has been a problem not only in the last year but over the last few years.

I just wondered what you might think about his comments that he is having difficulty getting people into the police force, and perhaps how this can be improved.

Mr Russell: My first answer to your question is that there is one thing I would like to see out of documents from the province and from municipalities such as Metropolitan Toronto—the word “minority.” What happens is that I think even the term itself is a drawback, when we start hunting for minorities. If I am a minority, I am not representative of the whole spectrum. I do not know what term we are going to find to replace that term, but for example, I went through one Metropolitan Toronto thing here and on one page I took up something like 10 references to visible minorities. It seemed to reinforce the fact that you are a visible minority. The approach there is wrong.

On the matter of getting other cultures, multicultural people, on to the police force, there is at this point within the youth sector, particularly in the black community, a very great area of distrust with the police. I know you might be thinking I am fairly young myself; I am 39 years old.

Mr Brown: That is young.

Mr Russell: I still have the opportunity to relate with youth at all levels. They just do not trust them. We do not see at this point, for example, in Metropolitan Toronto—I do not believe there is one black or Indian superintendent of police, anybody in the higher ranks, so you have them all in the subordinate ranks. When you start sending out all these special constables and sergeants to talk to this group of people, one of the first things is, “Well, do we have anybody in the senior ranks who is anything we can look to?” No, there is not.

The other thing is that I myself went to a meeting with the police last year and they were talking about recruiting. Yes, the problem was recruitment within our particular community. I have spoken to the officers who were recruiting on a number of occasions. They are very pleasant gentlemen, but unfortunately we will always have problems in relating to the other cultures because again, when they try to recruit in the other areas, you just look on them as a colour pigment.

Sending somebody out to talk my language is a very difficult activity. I do not know if it means that you will have to, say, even recruit a black officer from the United States or somebody who already knows the police process, put in the process and have that individual deal with that particular community. But at the present moment I do not believe that the recruiters we have can discuss recruiting with the community they are trying to reach.

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Miss Nicholas: I just have one other question. It is with respect to your recommendation that appointees to boards attend a certain number of meetings to show that their dedication is there. You referred to appointing political plums and so forth, on being on the commission. My understanding is that when you are on a commission it is per diem, so if you do not show up you do not get paid. In fact, the yearly pay for boards is quite modest indeed. I think you might obtain \$2,000 or \$2,500 per year for your involvement on a board or a commission, except maybe the Metropolitan Toronto Police Commission; they may have the opportunity of receiving a little bit more than that.

I just wondered if you have or have heard of specific instances in boards where you felt that the neglect of one of the members not to show up on a regular basis has in some way been detrimental to the decisions or the policymaking of that

board or commission, or if your concern was more that people fulfil the duty to which they were appointed.

Mr Russell: I have not been looking into the activities of board members. My concern is that when you appoint someone, you appoint him not because—well, again, I can understand that normally politically you would give something to somebody who has paid his dues somewhere. But when you want committees, and particularly at this stage, when we are having some development within the police area, your committees will have to have people who are genuinely there to have input into the system.

You spoke about the area where per diems are paid for attendance of meetings. That is only a small area. When you are appointed to a committee, you receive a facelift. You can use that as a stepping stone to go someplace. The per diem might be only a small fragment of that appointment. Many people use this for that purpose. Maybe boards should be unpaid to see how many people are really genuinely interested in the committee's work.

My real concern is that you will not have people on these boards who are genuinely interested in working with the board, working with the community, in a method that is necessary to ensure true accountability.

Mr D. R. Cooke: First of all, I trust the staff of the Solicitor General have pointed out and will point out to the Solicitor General that Mr Russell has endorsed my amendment to section 70.

Second, there are a couple of things I am interested in. You have taken the time to describe yourself as being of African blood. I presume you are giving us that as your *raison d'être* for being here. Is that fair?

Mr Russell: When I say of African blood, over the years we have had so much disparity within this particular race. They call them Negroes, they call them Negroids, they call them blacks, and a lot of differentiation. When I say African blood, African blood means African Canadian, African Jamaican, African American, African Barbadian. It is like a Chinese individual. Wherever in the world he is, he is a Chinese.

I am saying that our views have to be seen from that level. Many times when you see all these activities happen within the police force, they try to segment various groups. For example, I was born in Jamaica, but my forbears were Africans. You might have been born in Canada, but your forbears were—

Mr D. R. Cooke: I understand that, but am I to gather that if you were to be of, say, European blood, you probably would not be here tonight?

Mr Russell: No.

Mr D. R. Cooke: May I pry into maybe some personal reasons why you might have brought this?

Mr Russell: If I was of European blood and I felt the issue affected me in any way that I need to voice my opinion on it, then definitely. I believe everybody should be addressing this act. This bill is necessary.

Mr D. R. Cooke: May I ask your occupation?

Mr Russell: I am a zookeeper.

Mr D. R. Cooke: A zookeeper.

Mr Russell: Working with animals.

Mr D. R. Cooke: Yes. What city do you live in, or where do you come from in Ontario?

Mr Russell: I was born in Jamaica. I lived in Guelph and I live in Scarborough now.

Mr D. R. Cooke: Have you had—

Miss Nicholas: A fine city, I might add.

Mr D. R. Cooke: Guelph is a fine city.

Have you had personal experiences with the police that you found unsavoury?

Mr Russell: The real thing with the police, I think, is a matter of approach.

I had one case just after the situation in Brampton, the Lawson situation, where I was pulled over at Yonge and Lakeshore. It was a spot check. I came out and basically I said, "Hey, I'm okay, you don't have to worry about me." I guess the guy basically figured I was making a joke or something, so it ended up that he stripped my car down and gave me \$600 worth of tickets. I brought them to the station and explained to the officer about what happened at the time, and he did not see anything. He checked my car and said, "Did you fix this, did you fix that light, did you fix this and that?" I said, "Well, you can check it for yourself." So the tickets were taken away, but it is not something I held against the police force. I think they are human like anybody else.

My real concern right now is that at this point you should probably be aware the events that have taken place with the young blacks do affect us in a different way in that there is a lot of interaction. There is a lot of word-of-mouth activity going on which, if you do not get a grip on it, over time will be damaging.

I find that the bill itself will help us to straighten out things.

My real problem is that, since we are having all this activity in the Metropolitan Toronto area, what is the role of the peace officer, the police officer? Where is that role?

I can tell you that other people who have spoken with me are all concerned. The real big thing is, a lot of people want to get out there and do marches and all this stuff. I personally do not believe it is necessary to do marches. We have a legal ground that we can work on. You have a bill coming into place that becomes something we can always use.

I am concerned as a community individual, but I have to address the concern as one of African heritage.

Mr D. R. Cooke: We have heard from several people who would identify themselves as being black who have indicated that they have suffered from a fairly constant form of harassment, and these are middle-aged people. They would seem to come to the conclusion that it was solely because of their heritage. You are indicating one incident that has not particularly coloured your own view, but you are concerned about the interchange that is occurring because of other incidents that have happened.

Mr Russell: That is right. There is a lot of concern, basically, among what you would call the middle-class working black. It is very extensive at this point. I can almost tell you that, particularly since the last shooting in Scarborough, there has never been one night when I have not received a phone call to discuss these issues.

Mr D. R. Cooke: Why would they call a zookeeper about this, if I may say so?

Mr Russell: This is what I am saying: Why do they call a zookeeper? When you start to talk to the animal person, then you know things have really gone bad.

Mr D. R. Cooke: What you are saying is that it is that intense an issue right now.

Mr Russell: It is a very intense issue. It therefore becomes necessary that we address it.

Mr D. R. Cooke: I am interested in your suggestion that the Ontario Human Rights Commission have an appointee automatically a member of each police board in the province. Their involvement would be when the board refers something to them, or would you suggest—

Mr Russell: Their role would be basically in a consultative area. That means if there are issues that come up to the board that may mean further grievance to the Ontario Human Rights Commission, they will not compromise their position with the board. Since a lot of issues have been about human rights recently, then their role would be to give ongoing advice to the board on issues.

Mr D. R. Cooke: Would you expect a commission member to be attending every board meeting?

Mr Russell: Not necessarily. They may just attend upon the agenda item that brings that issue to be put into place.

Mr D. R. Cooke: Supposing a citizen brought something to their attention without the police commission perhaps wanting it to be brought to their attention. Would you expect them to do some intervening then?

Mr Russell: The human rights officer would basically be giving consultation to the board. At that time, as a legal individual, the other person would also have the right to receive what his rights are and away he could go. So it basically would be a buffer position to provide advice.

Mr Brown: I think Miss Nicholas and Mr Cooke have asked the questions that I wished to ask, but I might make just a brief comment.

I represent a northern Ontario riding. In my riding, the largest visible minority are native people, probably historically the ones who have had the greatest difficulty with police in Ontario, in Canada, for that matter, because over time there have been some laws that were very discriminatory in the treatment of native peoples. That is just a side comment, but it is one that, because the OPP itself deals with this—it is very seldom that a municipal police body deals with them, and it has created some of the great difficulties, I think, in our justice system.

I just wanted, though, to commend you for coming here today, because I think it is very important that we have people who come before us and represent their views and provide helpful suggestions on how we can make sure that justice not only happens but appears to happen. I think that is what this whole issue and this whole bill is about: trying to give the public confidence that justice does happen and also appears to happen.

The Chair: I want to thank you for your brief and your comments and recommendations. I am sure they will be useful to the committee.

The committee adjourned at 2124.

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